



Navigating Access to Justice Pathways: Problem Resolution Routes for People Experiencing Civil and Family Law Problems in British Columbia

Yvon Dandurand, Jessica Jahn, Cathy Tait, Megan Capp

April 20, 2022

This study was made possible through the Support of the
Law Foundation of British Columbia

The authors gratefully acknowledge the tremendous support and inspired guidance they received throughout this research from Ms. Johanne Blenkin, former Executive Director of University of Victoria's Access to Justice Centre of Excellence. They wish to thank all study participants for their willingness to so candidly share their experience of access to justice. They are also grateful for the valued assistance they received from Ms. Erin Monahan, Project Manager, Access Pro Bono Society of BC, and Ms. Patricia Byrnes, Executive Director, People's Law School, in recruiting participants in the study.

Contents

Introduction	3
Background	6
Previous Research	8
Methodology	20
The Legal Problems	24
The Needs Experienced and the Assistance Being Sought	25
The Personal Experience of the Pathways	29
The Outcomes of their Efforts	42
What People Learned from their Experience	46
Conclusions	49
References	51

Introduction

A 2018 ACE study conducted by Janet Currie identified some of the key research questions and priorities related to access to justice as identified by key respondents working in the British Columbia civil justice system (Currie, 2018). One set of high priority questions concerned the pathways people use to try to solve their legal problems. That set of questions is particularly important because, without a better understanding of these pathways, it is difficult to interpret most other data on access to justice and justice outcomes.

The A2JBC Access to Justice Measurement Framework¹ also recognizes that data on people's choice of problem resolution routes, or pathways to justice, together with data on legal needs, are essential to understand the extent to which the population's legal needs are met. An understanding of people's justice problem resolution strategies and the access to justice pathways open to them is necessary to make sense of data on people's legal awareness, on the impact of public legal information and education, and of their experience as users of the justice system. A need for understanding is particularly important as, with the introduction of new technologies, new pathways will become available and existing pathways will be transformed. For example, artificial intelligence and online dispute resolution have already begun to alter the delivery of legal services, including services to people with low income and marginalized communities.

Just as it is important to understand the legal needs and the everyday legal problems of the population and various segments of the population, it is important to understand the decisions made by people experiencing these problems, how they attempt to resolve these problems, whether and how they attempt to access the justice system, what services they access, and what outcomes they receive. These pathways can be quite tortuous, complex and are still poorly understood.

There are questions about whether people who experience different kinds of legal problems are aware of their rights, the potential legal recourses open to them, and how to access justice services, as well as the extent to which this is affected by public legal information and access services. There are also questions about: the kinds of justice services that exist and the extent to which they are accessed by people experiencing legal problems, in what sequence, and under

¹ Access to Justice BC, *Access to Justice Measurement Framework*.
<https://drive.google.com/file/d/15gtf7TpgcTofY3XlyGR-BeK74CXlTeLq/view>

what circumstances; the choice of pathways and differential access to varying pathways available to various sub-populations; the kinds of obstacles encountered by people in accessing different types of legal services; and, how people navigate through the justice system. Ultimately, this all leads to questions about the kind of pathways that lead to better outcomes for different kinds of legal problems and in varying contexts.

Understanding pathways to justice also requires an understanding of the legal awareness and the relative legal capability of people who experience legal problems. This refers to their ability to recognize and manage their legal problems (Collard & Deeming, 2011) and to identify and access the legal and other services they need. Knowledge, capacity, capability, and understanding are believed to be key prerequisites to access to justice. Legal capability is a key indicator for the effective use of available legal services, as surveys show that people with low levels of legal capability are more likely not to act, less likely to sort things out alone, and less able to successfully solve legal problems (Forell & McDonald, 2015; Wintersteiger, 2015).

There is a substantial body of evidence on the incidence of justice problems (Canadian Forum on Civil Justice, 2016), but there is much less information about how people try to resolve their problems (justice problem resolution patterns and strategies or pathways). In British Columbia, with the exception of the useful but limited data produced for Legal Aid BC (LABC) (2020), information on the problem resolution routes used by people experiencing civil or family law problems has not been collected.

According to the 2021 Statistics Canada's Canadian Legal Problems Survey (CLPS) (Savage & McDonald, 2022), just under one in five Canadians had experienced at least one dispute or problem that they considered serious or "not easy to fix" in the three years preceding the survey. Almost nine in ten of them (87%) reported taking some form of action to address it, with most seeking resolution outside of the formal justice system. A third of them had contacted a legal professional, and an additional 8% said that they contacted a court or tribunal. The most common actions taken to resolve serious problems were obtaining advice from friends or relatives (52%), searching the Internet (51%), and contacting the other party involved in the dispute (47%) (Savage & McDonald, 2022).

While the CLPS provided insight at a national level, the problem resolution routes for users and non-users of the civil and family justice systems in British Columbia have not yet been adequately mapped. This lack of data has ongoing

consequences for service delivery, program development, and program evaluation.

The preliminary, qualitative study reported here aimed to improve our understanding of how people seek to resolve their problems, the pathways they take, and the influences that shape decision-making when faced with a civil, administrative or family justice problem, including those related to domestic abuse. The overall goal of the study was to explore how one may map out, from a people's perspective, the problem resolution routes available to and used by people experiencing civil and family law problems in British Columbia.

The objectives of this exploratory study included:

- Developing a fuller understanding of how people define the civil and family law justice problems they experience
- Mapping the main pathways used to resolve problems (including taking no action) by people experiencing civil and family justice problems
- Identifying the obstacles/barriers encountered by individuals in trying to access certain pathways and how these barriers may affect their decisions
- Understanding how people prioritize and manage multiple legal problems

The study attempted to broadly capture people's experiences in resolving justice problems by listening to their stories. This semi-structured approach allowed space for participants to share the breadth of their experiences and emotions, rather than focusing on a predefined list of topics. For the present study, this was found to be a beneficial methodology which yielded rich data. The study differs from another type of justice pathways mapping, sometimes referred to as 'journey mapping', which involves tracking people's journey through the pathways established by various services and agencies for this purpose (OECD 2019: 95). The 'journey mapping' approach focuses on people's access to existing major legal services and consists of tracking every time a survey respondent mentions a referral to major service providers.² This type of process mapping helps understand how people with legal needs intersect with and progress through a complex system involving both justice and other sectors

² One example of access to justice mapping in British Columbia involved mapping patterns in service referrals experienced by unrepresented litigants (Reid, Senniwi, & Malcolmson, 2004).

and map their needs and possible points of intervention within the process from their perspective (OECD, 2019).

Background

Pathways to justice research is an offshoot of the tradition of legal needs surveys. It aspires to observe the entire range of everyday legal problems (whether or not they are understood as legal), the paths used by individuals who experience them, the obstacles the encounter, the assistance they seek or receive, and the outcomes of their choices and actions.

Surveys examining the various paths to justice adopted by people who experience legal problems have helped build a substantial evidence base around people's experience of justiciable problems (Pleasence, Balmer, & Sandefur, 2013; Pleasence, Balmer, & Denvir, 2015; Jacobs, Kryszaitys, & McManus, 2015). By exploring the decisions made and the factors associated with different routes to justice problem resolution, these surveys have found that there are many and varied paths and that formal legal processes are often peripheral to the experience many people have of legal problems.

A central focus of legal needs surveys is the respondents' problem resolving behaviour. This can extend to a broad range of activities which are seldom captured adequately by legal needs surveys. The OECD's Guide on *Legal Needs Surveys and Access to Justice* emphasizes the need to draw a comprehensive picture of people's problem resolving behaviour, including three separate areas of activity: help seeking, use of processes, and other activities that support problem resolution (OECD & Open Society Foundations, 2019). It also identifies the need to go beyond help seeking behaviour to understand whether, once help is being sought and contact is being made with a service provider, assistance is actually provided or received and whether it is perceived as useful. Consequently, one can only interpret pathways to justice within the broader context of access to justice services delivery.³ Furthermore, there is a body of research which reveals that legal problems do not occur in isolation but in 'clusters' and that having experienced a legal problem increases the likelihood of experiencing a new problem (e.g., Pleasence et al., 2004; Currie, 2009).

Whenever people face a need for justice, they may embark on a path, or problem resolution route, to justice (Gramatikov, 2009). However, people do not

³ For example: Montgomery, R. et al. (2020). "E-Gladue": Using Technology to Increase Access to Justice for Remote Indigenous Communities. Vancouver: ICCLR

necessarily seek help when they have a legal problem. When they do, they may seek legal assistance, but evidence shows that only some of the justice problems people experience actually benefit from legal assistance or other legal interventions. Others do not (Sandefur, 2019). People also approach non-legal services, which may include family and friends, a doctor, a support worker or others, which sometimes offer a path to legal assistance (Clark & Forell, 2007). Of those who are aware of their legal problem and choose a resolution route, many rely on some form of legal self-help resource or assistance service, although the availability of such pathways is influenced by the eligibility criteria applied by service providers, the effectiveness of referral systems, and initiatives designed to divert litigants to mediation and other consensual dispute resolution mechanisms. Disputants' pathway experiences are further affected by the possibility of cascading legal problems, whereby an initial legal problem can create a vulnerability to multiple legal problems, especially if that initial legal problem remains unaddressed (Pleasence et al., 2004; Coumarelos et al., 2012; People, 2012).

Pathways to justice are differentially accessible to individuals facing legal problems, depending on the nature of the legal problem, the private costs involved in pursuing a particular path (including uncertainty about these costs), and several other obstacles which, depending on the particular situation and various other factors, affect individuals differently. Among these numerous obstacles or barriers, studies have identified the following: information barriers; monetary outlays; delay of dispute resolution; uncertainty of the cost; uncertainty about the various process and what they may involve; geographical remoteness of justice service providers, complicated procedures; stress and emotions; potential secondary victimization; social costs and damage to relationships; language barriers and lack of understanding legal language; cultural barriers, and distrust in justice institutions (see: Gramatikov et al., 2011).

Access to justice pathways are also affected by the eligibility criteria applied by service providers, existing triage models and triage practices, and the nature and effectiveness of referrals systems (see Department of Justice and Regulation, 2016). Additionally, pathways are clearly affected, sometimes in complex ways, by court rules and various initiatives and practices intended to divert people away from unnecessary litigation and provide access to mediation and other services. In some instances, these pathways are enhanced by various initiatives to offer integrated and more holistic legal assistance to resolve a client's multiple legal problems. This includes initiatives to create integrated and collaborative modes of service delivery to respond coherently to clients' legal

and non-legal problems and to coordinate services for disadvantaged and vulnerable groups.

Finally, in a time of crisis or when significant disruptions occur in the justice system, existing pathways may be obstructed or changed in other ways that limit or restrict access to services. For example, the COVID-19 pandemic and associated restrictions have had a disruptive effect on the justice system, the legal services available, and access to justice. Courts have had to temporarily limit their activities to urgent matters, thus creating a potentially problematic backlog of cases and this might require diverting a greater number of cases to alternative resolution or adjudication processes. As some of the normal pathways to justice and conflict resolution were narrowed or obstructed, new pathways to justice opened even if only on a temporary basis. The full extent of the COVID-19 pandemic on justice pathways and access to justice has yet to be determined.

Previous Research

In British Columbia, 75% of low-income individuals experienced at least one everyday legal problem over a three-year period, 43% of whom dealt with a consumer problem (Sentis, 2018a). At the national level, nearly half of all adult individuals encountered a family or civil justice problem over that same reference period, meaning that almost all Canadians are expected to be confronted with an everyday legal problem during their lifetime (Farrow et al., 2016). Individuals with a legal problem may be categorized into three general groups (i) those who do not understand their problem as legal in nature; (ii) those who are aware of their legal problem but leave it unaddressed or unresolved; and (iii) those who are aware of their legal problem and seek to address it by choosing a pathway among those available to them (Dandurand & Jahn, 2018: 10).

For different reasons, the collection of comprehensive data on unaddressed and unresolved legal problems presents challenges, yet understanding why individuals decide to leave their legal problem unaddressed or unresolved and its costs and consequences would enrich our collective knowledge on access to justice. Few studies in British Columbia and Canada have examined the decisions and behaviours by people experiencing a legal problem, their choice of and differential access to various justice pathways, the relative effectiveness of these pathways, and the outcomes at which people arrive. Fewer studies still have applied longitudinal and experimental methods to explore the relationship between different resolution routes and the immediate and long-term impacts of a choice of pathway on people dealing with a legal

problem. In fact, none of the key factors affecting people’s pathways to justice and ultimately their access to fair outcomes have yet been fully analyzed in this province.

Pathways to legal help and laypeople’s legal problem-solving behaviours

As a point of departure, people must understand their problem as legal in nature, often requiring a level of legal capability, which has long been recognized as a pre-requisite to legal problem-solving behaviours and access to justice (Pleasence & Balmer, 2019; Pleasence & Balmer, 2014; Galanter, 1974).⁴ In fact, research has consistently demonstrated that deficiencies in legal capability are more likely to result in unresolved legal problems (Forell & McDonald, 2015), especially because they create a “paralyzing effect” that leads to inaction (McDonald & People, 2014). In a report for LABC, Sentis (2018a) found that the main reason people did not take action to solve their legal problem (33%) was that they “did not know what to do” (43%), pointing to a lack of legal knowledge, skills, and capability.⁵ Moreover, people with lower levels of legal capability report worse experiences with justice pathways and lower satisfaction with the outcome (Legal Services Board, 2020).

Among individuals with a medium to high level of legal capability, self-help resources, such as public legal information, can enhance legal problem outcome satisfaction and favourability. However, research shows that such resources are not widely used among certain sub-populations in Canada, namely non-English speakers, people with lower education levels, and those living in remote areas (McDonald, Forell, & Wei, 2019). In general, however, services that assist with diagnosing a legal problem, facilitating triage, and providing referrals can be particularly useful in the early stages of an individual’s case, regardless of their legal capability levels. For instance, MyLawBC is an online platform that uses

⁴ Despite definitional challenges, “legal capability” may be understood as “the abilities that a person needs to deal effectively with law-related issues. These abilities fall into three areas: knowledge, skills and attitudes, emphasising that capability needs to go beyond knowledge of the law to encompass skills like the ability to communicate plus attitudes like confidence and determination” (Jones, 2010: 1).

⁵ Of particular note, several explanations for offered to explain why individuals did not seek legal assistance services as part of their resolution process, namely related to costs and affordability (27%), hopelessness about what could reasonably be expected to be achieved (24%), and insufficient knowledge on what to do (23%). Additionally, 12% of respondents indicated they left their problem unresolved.

'pathways' and asks simple questions about the user's legal situation and then offers an automated action plan. An evaluation of the MyLawBC website found that 'pathway' users were significantly more likely to report an increased level of understanding of their legal problem, compared to non-pathway users (Legal Services Society, 2019: ii). While many legal self-help and assistance services exist in British Columbia, more analysis is required to map them out and understand the role they play or aspire to play in signposting individuals to different pathways. There is a need to scrutinize the factors that may explain why different users decide to access different services. In addition, there is a need to consider whether legal assistance services lead to early or more effective resolutions, and whether certain combinations of legal self-help and legal assistance services are possibly more effective for achieving resolutions to specific types of legal problems.

Few studies have examined the variables that affect a person's propensity to take action in solving their legal problems, including by seeking legal services. When trying to explain advice seeking behaviour, the type of problem involved is consistently a key driver of advice seeking and, specifically, whether 'legal' advice is sought. Considerable variation is also observed in the extent to which different types of problem are characterized as being 'legal' (Pleasence, Balmer, & Reimers, 2011). As Sandefur concluded, the distinction between a 'justice problem' and a 'legal need' is crucial: "If the problem is people's unmet legal needs, the solution is more legal services. If the problem is unresolved justice problems, a wider range of options opens up. Rather than taking the position that unmet legal need is the crux of the issue, we have the option of formulating the access-to-justice crisis as being about, well, access to justice" (Sandefur, 2019a: 50).

As Lawler, Giddings, and Robertson (2012) explain, legal self-help behaviours are typically shaped by the circumstances around the particular problem, including the emotional investment, the complexity of the legal process, and the attributes of the self-helper, such as literacy level, socio-economic background, and ability to make informed decisions. Furthermore, Griener, Jimenez, and Lupica (2017) observed that cognitive capacity and mental state affect legal self-help behaviours, recognizing that individuals who must navigate the legal system ordinarily exhibit elevated levels of anxiety, shame, and distress, which can shape decision-making. In further studies, such as those by Farrow et al. (2016), Dandurand and Jahn (2018), and Coumarelos et al.

(2012), the costs involved in order to resolve a case have been noted to influence behaviours.⁶

In their scenario-based study on help-seekers' journeys in resolving a legal problem using online tools, Szczepanska and Blomkamp (2020) found that the experience typically begins with a "gut response" that their situation is unfair, prompting the use of a search engine, such as Google, in which the problem is described in lay language (see also Hagan, 2016). So-called "super searchers" exhibited different behaviours in their search, including by broadly exploring the available resources and using multiple tabs to triangulate information, later exiting from websites they deemed irrelevant (p. 27). The researchers found that most participants diagnosed their legal problem within five minutes, although the speed of diagnosis was not disaggregated based on varying legal capability levels. Moreover, participants reported disinterest in receiving education on legal rights or processes, instead preferring interactive flow charts and decision tree tools to visualize varying steps and options for their situation, with most participants also indicating a desire to speak with a legal professional at some point.

Other studies have explored the ways in which the information provided on self-help tools is used, including by vulnerable groups. In particular, Denvir (2014) explored how youth acquire information on the law and their rights using the Internet, finding that online legal information does not immediately translate into improved legal capability among young people. Sandefur (2019) found that merely half of the 322 identified American-based online tools help users take steps to address their legal problems, owing in part to a lack of consultations with the end users in producing the platforms. Conversely, 89% of low-income British Columbians reported that they received the help they were seeking by using

⁶ Recognizing that every resolution route involves varying costs, researchers have attempted to estimate the benefits and costs of justice pathways. In particular, the Access to Justice Measurement Framework, developed for Access to Justice BC, distilled the costs as (i) those borne by the justice system or any of its components; (ii) those incurred by the user of justice services or by the providers/funders of the service; and (iii) the economic impact of access to justice (Dandurand & Jahn, 2017). In a study by Paetsch and her colleagues (2017), a social return on investment analysis was conducted based on data collected from Alberta, British Columbia, Ontario, and Nova Scotia, which revealed that mediation of low-conflict family disputes created the highest social value (an estimated CAD 2.78 for every dollar spent), whereas litigation for high-conflict family problems yielded the lowest social value (CAD 0.04 for every dollar spent). The authors cautioned that the financial proxies on which they relied were "somewhat arbitrary" (p. 3), but that the findings offer useful comparisons between different processes.

online legal assistance (Sentis, 2018a). Conflicting findings on the utility of online legal self-help platforms may highlight the importance of designing such services in a manner that aligns with the preferences and needs of the intended users.

Beyond legal self-help resources, a range of legal aid services, including legal advice and representation, exist to further support individuals' pathways and access to justice. Even though some evaluations of LABC's services provide insight into program delivery (Prairie Research Associates, 2017), an independent review shows that legal aid reform in British Columbia is required (Maclaren, 2019). Similarly, national studies reveal the differential legal aid eligibility and delivery among provincial legal aid plans (Dandurand, 2017), although the available Canadian evidence on how qualified individuals with a legal problem use legal aid is surprisingly scant. In her literature review on measuring the impacts of legal services, Canadian researcher Lisa Moore (2020) argues that such knowledge gaps severely inhibit governments' ability to allocate resources, affect reform, and reduce adverse consequences of inaccessible justice. In response, she poses a series of helpful research questions, including the fundamental questions of "[h]ow does the experience of resolving civil justice problems differ from litigants who receive legal assistance and litigants who do not?" and "[a]re there demographic differences or similarities to be found among outcomes and experiences for populations who receive legal help to resolve their civil justice dispute and those who do not?" (Moore, 2020: 6). In British Columbia, a client satisfaction survey produced for LABC found that 55% of clients reported that the organization met their needs, although important questions remain on how and why such needs were met (Sentis, 2018b).

Some research points to associations between the problem-solving strategies adopted by persons with a legal problem and their reported outcomes. More specifically and perhaps unsurprisingly, Pleasence and Balmer (2014) found that those who indicated reliance on informal advice were less likely to use courts or tribunals in solving their problem, whereas those who reported using law firms were more likely to engage in a court or tribunal process. Emotional stability was also found to influence problem outcomes, with higher stability levels leading to a greater likelihood of putting up with the problem. While their study was extensive, questions remain around whether the use of self-help resources and legal aid are associated with different outcomes, among others.

On a broader level, other studies still have examined the benefits and costs of certain legal aid services, including as they relate to families, communities, and the economy. On the whole, comparative research has found that represented litigants perceive receiving more favorable outcomes and report higher

satisfaction with the process. Some research has attempted to estimate the impact of legal aid, some of which have begun to link such services to the prevention of mental health concerns and prevention of family violence (Rosenberg & Grab, 2015; Byrnes, 2015; Cavallari, Devlin, & Tucci, 2014; Smith & Thayer, 2014; Irvine, 2014; Smith, Brewer, & Garwold, 2013; Abel, 2012; Kushner, 2012). With some exceptions, studies have shown that investments in legal aid services generate social and economic returns that exceed the initial financial injection (see Moore & Farrow, 2019; Dandurand & Jahn, 2018), yet more analysis is required to understand how those services are actually used.

Accessible legal assistance services, including self-help resources, are arguably beneficial to all those navigating the justice system, but may prove particularly useful for self-represented litigants, whose pathways to justice are often fraught with heightened levels of distress and anxiety. Despite the reported increased prevalence of individuals who are self-representing in Canada (Birnbaum, Bala, & Bertrand, 2012), there are very limited data on the experiences of such litigants. What comprehensive research has been produced in Canada is somewhat outdated, noting that the most rigorous study remains the seminal 2013 research report by Julie Mcfarlane. Among other things, Mcfarlane's study found that litigants' decision to self-represent was most commonly based on financial considerations or dissatisfaction with legal services. Justice system engagement by self-represented litigants was generally negative, with respondents reporting frustration in completing court forms, poor perceptions of lawyers, and incivility by judges. In terms of pathways to justice, the experiences of self-represented litigants are important to consider in part because they may reflect a culmination of various justice system failings, from inaccessibility to poor quality of existing services.

Pathways to resolutions and disputants' procedural preferences

It is indeed important to understand people's help seeking behaviours and legal needs, but it is also crucially important to understand why people decide to proceed through different resolution routes, how that process unfolds, and the outcomes at which they arrive. In many instances, disputants' ability to exercise a preference for a resolution route or to find a satisfactory pathway to address their particular needs may be limited or essentially inexistent. Nevertheless, in an effort to understand peoples' preferences for adjudicative or non-adjudicative pathways, several studies have sought to identify how individuals with a legal problem evaluate their situation and choose a suitable procedure by which to resolve their dispute. However, much of that empirical research was conducted in or before the 1990's, is generally inconclusive, and

suffers from methodological constraints, including a lack of participation by actual disputants (Schuller and Hastings, 1996; William et al., 1981; LaTour, 1978; Walker et al., 1974; Resnik et al., 1990; Shapiro & Brett, 1993; Houlden et al., 1978; Heuer & Penrod, 1986; Stallworth & Stroh, 1996).

As Shetowsky (2008) warns, the inconsistent methodologies and contradictory findings of existing research create challenges in drawing reliable inferences. She observes, however, that recent research tends to support the view that disputants typically favour non-adjudicative procedures (e.g., mediation) over adjudicative procedures (e.g., arbitration) (see also Welsh, 2004). In general, such results align with the realities in Canada, whereby everyday legal problems are most often addressed beyond the formal adjudicative court system. For instance, a study in Ontario found that the majority of family cases are resolved outside of trial, typically through negotiation (Saini et al., 2016). In the UK, Pleasence and Balmer (2014) found that merely one in 20 people would resolve their problem through courts or tribunals.

In a study that collected data from 413 litigants, Shestowsky (2014) examined how disputants evaluate procedural options and their preferences, finding that respondents who are at the early stages of their case reported a significant preference for mediation, judge trial, and negotiation with clients present, but that preference did not translate into a higher expected likelihood to use those favoured procedures (see also Peirce, Pruitt & Czaja, 1993).⁷ Such a finding might signal disputants' awareness that factors beyond their preference determine their justice experience, although Shestowsky (2014) noted that further inquiry into their expected use of different procedures is needed. Analysis also showed that certain circumstances affected attraction to different procedures. In particular, disputants who valued the relationship with the other party were apt to prefer negotiation with litigants present. Binding arbitration was preferred by repeat disputants compared to their first-time counterparts. Women demonstrated a lower attraction to jury trial and binding arbitration, but gender did not affect desirability for judge trial, which is also an adversarial procedure.

A study by Tyler and his colleagues (1999) revealed that people indicated a prospective preference for resolution routes that were perceived to lead to a desirable outcome, but retrospectively evaluated the resolution based on the

⁷ Respondents reported a higher expected use of negotiation without their involvement in the procedure, although that procedure did not receive the highest preference ratings.

treatment they received during the procedure. Similarly, Shestowsky and Brett (2008) argued that a litigants' stated pathway preference is dependent upon the point at which the litigants are asked about their dispute resolution journey (see also Schuller & Hastings, 1996). In particular, their longitudinal study of civil litigants revealed that respondents with an initial attraction to adjudicative procedures had high ex post satisfaction rates, while those who demonstrated an ex ante preference for non-adjudicative procedures did not share such high ex post satisfaction.

Another longitudinal study by Shestowsky (2018), who asked civil litigants about the factors they considered in their procedural selection decisions, found that the main three factors deemed important by litigants remained stable before and after their case, particularly their lawyers' advice, economic costs, and time efficiency.⁸ Furthermore, the respondents who indicated lawyer's advice and cost as key factors in their initial decisions were more likely to report that those criteria motivated their ultimate use of a specific procedure. Conversely, time efficiency was not associated with pathway use. Such findings deviated from those of previous research, which tended to show that process control and the perceived likelihood of receiving a favorable outcome were the top factors shaping disputants' decisions (Thibaut & Walker, 1975). Similarly, more recent findings signal that lawyers' procedural preferences influence litigants' decision-making to a significant extent, which might be slightly problematic in part because there has been seemingly little empirical research on the factors considered by lawyers in advising their clients on procedures. What literature exists suggests that lawyers may be incentivized to advise clients based in part on their own self-interest (Macey, 1994) and past experience of different pathways (Wissler, 2002).

Subjective legal empowerment (SLE), or the "subjective self-belief that an individual can solve problems of a legal nature" (Gramatikov & Porter 2011), can also help explain an individual's choice of a problem resolution strategy. As the level of subjective legal empowerment increases, so too does the tendency to act to resolve legal problems (Pleasence, Balmer, & Denvir, 2015: 131).

High costs tend to explain the problem resolution decisions made by people facing justice problems. Using the path to justice paradigm, some studies have attempted to measure the relative costs and procedural quality of paths to

⁸ The least frequently referenced factors revolved around the bindingness of the decision, input from others, and the ability to appeal the decision.

justice, as well as their outcomes from the perspective of the justice system user (Gramatikov et al., 2011).⁹

Likewise, Pereira and her colleagues (2014) examined the extent to which court fees influenced individuals' decisions to seek a resolution in UK family and civil courts, revealing that emotional motivations were the main reason respondents sought resolutions in court, while court fees did not factor significantly in decision-making.¹⁰ In particular, emotional motivations manifested in various ways, including concern over a child, desire to be heard, and need for recognition of the validity of their grievance. In some cases, however, emotional and financial factors coalesced, especially for civil cases in which a litigant may be emotionally invested in recovering money. In arriving at the decision to take their case to court, the respondents reported prior failed attempts in using other options, resulting in the feeling that they had no alternative but to resort to court.¹¹ Of note is that respondents reported varying levels of awareness and knowledge, often depending on whether and when they retained a lawyer, but self-represented litigants were able to successfully overcome a lack of awareness if they reported high levels of motivation.

Another qualitative study by Pereria and her colleagues (2015) explored why and how people address their civil and administrative legal problem, finding that legal knowledge and skills were a key factor that shaped participants' decisions on resolution routes across all problem types. Results further show that individuals exhibited different resolution seeking behaviours for different types of legal problems. For instance, in cases involving family justice problems, people generally sought to understand their options and were likely to retain a lawyer when the dispute revolved around financial issues, although their approaches to identify a lawyer were not systematic. In disputes involving child

⁹ The costs of justice are defined as "the resources which the user needs in order to travel from the beginning to the end of a path to justice" (Gramatikov et al., 2011).

¹⁰ Whereas Shestowsky (2018), who found that economic costs impacted decisions, adopted a broader definition of costs, Pereria et al.'s study is limited to court fees, excluding lawyer fees, transaction costs, and other costs that accrue as a result of proceeding with the formal justice system. Within the broader distribution of the costs of justice for individuals and governments, especially for those who can fund a private lawyer or qualify for legal aid, court fees are a small proportion, and the results of this research should be interpreted as such.

¹¹ The findings are further undermined by the fact that the researchers only sampled those who took their case to court. In other words, the views of people who were deterred, by cost or otherwise, from proceeding with court are not captured. Furthermore, those who were successful in resolving their case beyond court are not included in the sample.

related matters, people often sought to avoid court, noting that parental power dynamics likely influence the type of pathway chosen. With domestic abuse cases, individuals were found to delay resolutions, partly because it was not perceived as a legal issue, with friends and family often seeking redress on behalf of the participant.

Such findings are generally consistent with past research, which has found that the nature of the legal problem in question influences whether a person is likely to take at least the initial steps towards a resolution. In particular, Balmer and others (2010) noted that individuals are less likely to seek redress for situations involving discrimination, police misconduct, and clinical negligence, whereas people are more likely to seek legal assistance for divorce, mental health, and separation cases. In a different study, Sandefur (2014) found that people are least likely to take action in cases relating to employment, government benefits, and insurance, while more likely to address relationship breakdowns and issues concerning a child's education.

Absent from most of the above literature are disaggregated data of disputants' preferences by different sub-groups, including those who self-represent, are deemed ineligible for public legal aid, and present factors that heighten their level of vulnerability. Remaining questions also revolve around whether disputants' preferences would vary if they were presented with other dispute resolution options, such as online dispute resolution and restorative justice; if and how disputants' preferences have changed in view of the restricted legal pathways created by the global COVID-19 pandemic; and how technology and virtual proceedings fare in the preferential equation. Within the contemporary and shifting legal landscape, such questions are increasingly important in informing policy decisions.

Taken together, this literature review highlights the prevailing paucity of knowledge on the experiences of individuals with a legal problem, including some of the implications of such data gaps on policy and practice. What is perhaps noteworthy is that much of the available empirical evidence has been produced on an expectedly small percentage of the population of individuals with a legal problem: those who pursue a resolution through the formal justice system. Much less is known about the experiences of people who solve their legal problem through other pathways or (un)knowingly leave their problem unaddressed or unresolved. This accentuates the need to examine more broadly the decision-making process through which people with a legal problem evaluate their options, and the factors that affect that process.

Impact of COVID-19 pandemic and associated restrictions

A nascent but growing body of literature is exploring the ways in which the global COVID-19 pandemic has and continues to affect pathways to justice (Capp, 2021). In Canada, many courts have delayed hearings, pushed dockets forward, and limited in-person proceedings (Haigh & Preston, 2021), adding further backlogs to a system that was already burdened and exposing its many flaws more clearly (Action Committee, 2020).¹² In a paper on court responses to the COVID-19 pandemic, Puddister and Small (2020) show that Canadian courts have cautiously adopted technology for emergency cases, but the uptake has been conservative and inconsistent, especially compared to the United States (US) and despite a pre-pandemic international movement towards technology. In British Columbia, mediation for early resolution has been encouraged with an increased use of online mediation for family matters (Sixta, 2020). At the same time, most court jurisdictions have migrated to online processes, particularly through virtual applications, document submission, and registration, while also facilitating remote witness testimonies and legal consultations (Helmer, 2020). Even though the pandemic has temporarily reduced the availability of some problem resolution routes and altered the populations' legal needs, a study for LABC (2020) found that 50% of its users reported that COVID-19 had nothing to do with why their problem remained unresolved. There remain significant gaps in knowledge.¹³

In its *Life through Lockdown* report, Citizens Advice (2021) monitored user data of its website to show trends in the legal problems with which people faced during the initial period of the pandemic. At the start of the lockdown measures implemented in England and Wales, it observed greater rates of people seeking advice for divorce cases and those involving contact with their children. At the

¹² For information on how other legal jurisdictions have responded to the COVID-19 pandemic, see International Bar Association. (2020). COVID-19 Pandemic: Impact of COVID-19 on Court Operations & Litigation Practices. Retrieved from: https://www.lalive.law/wp-content/uploads/2020/05/2020-SGI-IBA_Impact_of_COVID-19_on_court_operations_and_litigation_practice.pdf. For a review on the strategies adopted by courts in the United Kingdom and Australia in response to the pandemic, see Rossner, Tait, and McCurdy (2021). Justice reimaged: Challenges and opportunities with implementing virtual courts. *Current Issues in Criminal Justice*.

¹³ At the time of writing, several studies are underway to fill various gaps in knowledge. In particular, Western University is undertaking empirical research on the impacts of the pandemic on Ontario's family justice system, including on the disproportionate effects on vulnerable groups (Western News, 2021). Other ongoing research, such as Farrow and his colleagues' study on measuring the impact of legal service interventions (2021), will also be relevant in this regard.

same time, lower numbers of debt-related requests for advice were documented, although those numbers increased in June 2020. During the first and second wave of the pandemic, the website experienced significantly higher numbers of users seeking help to draft wills and deal with deaths. While such findings do not offer insight into the various stages of people’s resolution processes, they point to the legal problems with which many individuals will likely encounter in the future, namely personal debt and housing and homelessness, which may influence individual’s decision-making.

In the United Kingdom, a rapid review was conducted by Byrom and her colleagues (2020) to assess the changes and their impacts on the civil justice system as a result of the pandemic, observing that remote hearings temporarily substituted in-person hearings. Respondents of that study generally agreed that remote hearings are most suitable for civil money claims and personal injury cases, especially those in which both parties are represented and live evidence is not presented. However, compared to face-to-face hearings, participants reported that audio and video hearings were less effective, in part because they often involved reduced opportunities for interaction and were not necessarily more affordable. Similarly, a study on remote hearings of judicial review processes in administrative court during the pandemic found that lawyers generally preferred in-person hearings compared to those conducted remotely, owing to technological difficulties, availability of hardware, and a perceived likelihood of confidentiality breaches (Tomlinson et al., 2020). Conversely, an evaluation of the video hearing process in England revealed high satisfaction rates among respondents, even though technical issues prevented the researchers from observing six of the 23 hearings (Rossner & McCurdy, 2020).

Remote hearings

While there are many other justice pathways beyond remote hearings, it may be a particularly important area of study in the future, especially since the 2021 report of the Canadian Bar Association recommends that “all resolution bodies should permanently implement” capabilities for remote proceedings, electronic filing, and the ability to remotely view hearings (CBA, 2021, p. 25). Prior to the pandemic, studies explored the ways in which online legal proceedings affect the role and perception of judges (Rowden & Wallace, 2018); the principle of open justice (Lane, 1999); the formality, legitimacy, and authority of the court (Wallace, Anleu & Mack, 2018; Rowden, 2018; Mulcahy, 2008); and the ways in which videoconferencing negates standard court rituals (Licoppe & Dumoulin, 2010). Importantly, some studies examined the extent to which remote hearings

influence litigant’s perceptions of fairness, experiences of procedural justice, and differential case outcomes.

For instance, an evaluation of a pilot virtual criminal court programme in England revealed that the use of video court led to a 3% increase in the rate at which defendants pled guilty, a 3% increase in the frequency defendants received a prison sentence, and a 3% decrease in community-based sentences compared to the in-person comparator group. However, the evaluators noted that several factors, such as legal representation and defendants’ virtual participation from police stations, may have contributed to the overall findings (Terry, Johnson & Thompson, 2010: 42).

In relation to televideo immigration hearings for detained litigants in the US, Eagly (2015) found an “outcome paradox” (p. 933), whereby individuals who appeared via televideo were more likely to be deported compared to those who appeared face-to-face, yet the rate at which judges denied televideo litigants’ claims did not increase. Eagly explained that televideo litigants were less likely to retain a lawyer, apply to legally remain in the US, or seek other benefits. Such findings suggest that remote justice proceedings, in and of themselves, might be linked to litigants’ perceptions of fairness, limited participation in the process, and technical difficulties, all of which influence the substantive outcome.

Evidence further demonstrates the differential procedural experiences of remote hearings among segments of the population. In particular, an inquiry into the pre-trial experiences of criminally accused individuals and defendants with a neuro-diverse condition, cognitive impairment, or mental health disorder in the United Kingdom found that video hearings impede such individuals’ ability to effectively participate and fully comprehend the proceedings (Equality and Human Rights Commission, 2020).

Methodology

Empirical research related to individuals’ choice of pathways to justice has generally relied on different methods, sample sources, and analytical tools.¹⁴ With some exceptions (see Shestowsky 2018; Pleasence & Balmer, 2014; Terry, Johnson & Thompson, 2010), much of the empirical research reviewed for this study relied on qualitative methods, particularly gathering data through

¹⁴ For an excellent review of the various methodological considerations in designing randomized controlled trials and longitudinal studies to measure the impacts of legal services and access to justice more broadly, see Moore, 2020.

interviews, online surveys, and observations. Given that many studies were exploratory in nature, the reliance on qualitative methods is perhaps not surprising, yet the lack of statistically significant findings should be noted. Even though few past studies captured the perspectives of real people with a legal problem, there is increased awareness of the severe limitations of laboratory studies with hypothetical litigants, resulting in a growing body of research with samples of people with legal problems. Even so, limited consistency in methodological and analytical approach negatively affects the reliability of existing findings.

Among the identified pertinent literature, Pereria and her colleagues' (2015) research, titled *The Varying Paths to Justice*, is arguably the study that bares the greatest resemblance to the present research. In its design, the researchers used qualitative methods, namely in-person and telephone interviews with a sample recruited from charities, courts, and existing networks. Implicit in their sampling technique is a potential bias of people for whom mediation or other alternative dispute resolution mechanisms had been unsuccessful. Recruitment for future studies could consider sources beyond courts. To deal with the complexity created by cascading and clustering legal problems, Pereria et al. (2015) assigned relevant respondents a primary problem around which most of the discussion revolved. In part, this was done to ensure sufficient coverage of different types of problems.

Also noteworthy is the fact that Pereira and others (2014; 2015) employed a so-called behavioural-research approach relying on the "COM-B Model," which considers how capability, opportunity, and motivation each coalesce to shape decisions and behaviours. In proposing that particular approach, Michie et al. (2011) had noted that "[f]or example, with one behavioural target the only barrier might be capability, while for another it may be enough to provide or restrict opportunities, while for yet another changes to capability, motivation, and opportunity may be required" (p. 4). In the justice context, in which the resolution routes are comparatively restricted at present, legal capability is recognized as central to overcome what others called the "paralyzing effect" (McDonald & People, 2014), and motivation is shaped by several factors, sometimes related to capability, opportunity, and others. The COM-B Model may continue to demonstrate its utility in this regard.

Another methodological lesson that can be drawn from past studies is the need to account for the fact that disputants' ex ante and ex post procedural preferences may change depending on the point at which disputants are asked about their experience (Tyler, 1999; Shestowsky & Brett, 2008). Failing to do so will likely influence a study's overall findings. To incorporate this lesson, studies

may be designed with pre- and post- data collection to determine possible deviations over time in factors that are deemed significant in decisions-making.

Quantitative studies on pathways to justice usually asked respondents to identify the main path they selected (e.g., no action, mediation, court, etc.) and sometimes also the main reason behind that decision. They pay less attention to the often circuitous and winding paths which people must often navigate, the multiple decisions they make along the way, the circumstances under which they do so, and the frustrations and successes they encounter. A qualitative study was needed to gain a better understanding how people experience legal problems and seek to resolve them, what influences their decisions along that path, what support they receive, and whether they are able to resolve these problems to their satisfaction.

Seeking a more granular understanding of people's experience of dealing with civil and family law problems in British Columbia, the present study relied on very lightly structured interviews with individuals who were willing to share their experience and tell their story. Initially, the plan was to contact people wherever they went to seek help with their problem, a method successfully used recently in a UK study on access to justice (Robins & Newman, 2021). However, this proved more difficult than expected at a time where physical access to services and to justice institutions was limited by the COVID-19 pandemic. The main difficulty lay in identifying potential participants for the study and a sample of participants with varied problems and experiences. Later on, with the collaboration of two organizations which offer online legal information and assistance, Access Pro Bono and the People's Law School, we were able to recruit potential participants by creating a dedicated e-mail address through which people could volunteer to participate after receiving an invitation to do so from one of those two agencies. The invitation that was sent out included a brief description of the purpose of the study and a promise of a \$50.00 gift certificate for participating in a confidential interview.

The response to that invitation to participate was almost overwhelming. Whereas our objective had been to conduct 20 to 25 interviews, we received over a two-week period a little over 200 requests to participate. Some of the people who volunteered for the interview had heard about the study through their friends. All volunteers were contacted by e-mail. A few of them were eliminated from the sample, because they lived outside of British Columbia. Interview appointments often had to be rescheduled because people forgot, were too busy, could not find a quiet time or space to participate in the interview, were busy dealing with the legal problem being discussed, or changed their minds. In the end, a total of 35 interviews were conducted during the months of

October 2021 to March 2022 (12 in person interviews; 6 telephone interviews; and 17 by video-call). All of the other volunteers were informed by personal e-mail that the study had been completed and that they would not be requested to participate; several of them expressed their disappointment as they felt that they had a unique experience to share with the researchers.

There was no attempt to construct a particular sample. Volunteers were included in the study more or less on a first come first included basis, bearing in mind that attempts to conduct a scheduled interview were sometimes unsuccessful. Participants were at various stages of attempting to deal with the legal problem they encountered. Out the 35 participants, 16 were male (ages ranging from 30 to 80 years of age), 15 were female (ages ranging from 23 to 65 years), and 2 transgender individuals. The age was only recorded when the information was volunteered by the participants. One of the interviews was actually with a married couple with both individuals taking turns telling their story about a problem they experienced around a large purchase gone wrong.

The sources of initial contacts or referrals for the 35 participants were as follows: Access Pro-Bono (15); supportive housing residences (7); People's Law School (3); Access to Justice Centre (2); a drop-in centre for women (1); a treatment facility (1); other/friend (3); unknown (2).

The participants were mostly from the British Columbia's Greater Vancouver, Lower Mainland, and Vancouver Island areas, with a few from the British Columbia Interior: Abbotsford (8); Burnaby (1); Delta (2); Duncan (1); Hope (1); Kelowna (1); Langley (1); New Westminster (1); Peachland (1); Roseland (1); Sechelt (1); Surrey (3); Vancouver (5); Victoria (5); White Rock (1); unknown (2).

Although they were not asked about it during the interview, participants sometimes volunteered as part of telling their story that they were Indigenous (1); a refugee (1); recent immigrants (4); individuals living with a physical or mental disability (3).

The contents of the interviews were analyzed thematically. Six major themes emerged from the stories participants shared with the researchers. They were: the nature of the legal problem encountered by participants and how they affected them; the needs they experienced or the assistance they were looking for; the problem resolution routes they chose and the decisions they made along the way; the personal experience of the pathways; the outcomes of their efforts; and the lessons people learned from their experience. The report is also organized thematically.

Given our approach, which was resolutely one of exploration, there is no suggestion here that what was learned of the participants' experience of access to justice can be generalized to that of all British Columbians. Our goal was to begin to map pathways and explore how a future research project could be designed that would help us to grasp the complexity of the problem-solving process people go through when faced with a civil and family law problem.

The Legal Problems

The range of legal problems 'recently' encountered by the participants is described in Table One. The term 'recently' was not precisely defined for the participants, but they seem to have generally understood it to be referring to a problem they had encountered during the last year or two. A few participants had experienced more than one unrelated problem and were invited to share their experience with each one of these problems. Many of the problems had a historical component to it, particularly when the problem related to family law and child care, access and custody issues. When they felt they could during the interview, participants would often insist on tracing the roots of current legal problem back to previous events, such as previously litigated or deemed to have been resolved legal problems, previous divorce or separation agreements, a history of domestic violence, past problematic interventions of child protection authorities over the years, or failure of the other party to comply with a past court decision or mediated agreement. Some of the legal problems were recent but not exactly new, since they were a manifestation of lingering and not fully resolved past issues.

As can be seen in Table One, participants had faced or were still facing a fairly wide range of civil and family law problems. In almost two thirds of the cases, they were the ones who had initiated some kind of action to resolve the problem. In some cases, the problem was an old one which was resurfacing either because of new behaviour/provocation or because of a failure of one of the parties to comply with the terms of a previous agreement or court decision. Because of the way participants were recruited, all of them were already aware that they were facing a situation for which there might be a legal recourse (i.e., a legal problem).

Table One: Recent Legal Problems Encountered by Study Participants

- ❖ Family issues (4 of which were linked with domestic violence)
 - Issue around a separation divorce: 7

- A problem related to child access or custody: 5
- Family maintenance enforcement: 1
- ❖ Residential tenancy issue:
 - Unlawful eviction: 7
 - Peaceful enjoyment of premises: 2
- ❖ Sales contract - land title/ownership): 3
- ❖ Child protection/custody issues involving MCFD: 2
- ❖ A problem with an employer or a job
 - Employment Standards: 2
 - Unlawful termination of employment: 2
 - Discrimination in the workplace (human rights): 1
- ❖ A letter threatening legal action: 2
- ❖ Harassment: 2
- ❖ Discrimination: 2
- ❖ A personal injury issue/ victimization: 1
- ❖ Legal guardianship issue (adult with mental health problem): 1
- ❖ A problem with a house, rent, mortgage or rent owed: 1
- ❖ Estate and inheritance: 1
- ❖ A problem with immigration: 1
- ❖ Contact with the police: 1
- ❖ Civil action against municipal government: 1
- ❖ Problem with a large purchase: 1
- ❖ Recovering debt or money owed: 1

The Needs Experienced and the Assistance Being Sought

Part of the interviews focused on how participants had experienced the legal problem they recently encountered and the need they felt for assistance or access to services, something which is sometimes referred to as the demand for services.

Participants described in their own words the assistance they felt they required. This included the need for information and legal information, including information about their own rights. Many of them made comments to the effect that 'there is a lot of information out there'. The challenge for them consisted of

choosing and interpreting that information and understanding how it applies to their own situation. Learning about one’s rights, it was suggested, was a process:

“Did I know my rights? Not originally, but then I spoke to someone who had faced a similar situation. She told me that I did not have to accept what these people were telling me. She encouraged me to inform myself and find out what I was entitled to. I took her advice.”

In some family law matters, a few participants mentioned that they had to learn about the rights of the child. One of them related to her experience of trying to understand the rights of the child as they applied in a case involving the British Columbia Ministry of Children and Family Development and the care of a child with a developmental disability:

“I thought I could trust the social worker to tell me about the rights of my grandchild and what I could do to help. She kept changing her story and telling me different interpretations of the law. I did not think that she was honest with me. I tried to find out about the law, but I could not get a straight answer from anyone.”

In one instance, a participant explained that he was acting on behalf of a non-profit organization and that there were different rights and legal obligations to be considered.

A few participants mentioned that it is sometimes ‘difficult to know whom to trust’. One of them said: ‘The websites give me different information. They say the law has changed. It is difficult to know what to trust’. One person added: ‘I wanted to do the right thing. No one seems to be able to tell me what was what’.

Very often, participants explained that what they had needed at some crucial point in a path to a potential resolution, was a confirmation of their own understanding of the law. They were seeking a confirmation that they had understood their right and obligations under the law. They feared that making a mistake, by misunderstanding the law or the conflict resolution routes open to them, could have serious consequences and potentially affect their legal rights. One participant explained:

I thought I knew the law, but I needed confirmation. I am not a lawyer.

“We wanted to do the right thing. We thought that we knew our rights. We checked the law for ourselves and we asked some friends, but needed reassurance that we were right. We did not want to take any action that we would regret later. My husband was confident that he understood the law, but I wasn’t sure. We did not argue, but it was tense. We contacted

Access Pro Bono to check our understanding and the lawyer confirmed that we were right. That was a relief.”

One recurring theme was the notion that legal information is in itself not enough; people also need concrete guidance. ‘The information you get’, one participant explained, ‘does not really tell you where you stand, what you can do about the problem, what’s the next step’. One person involved in divorce proceedings and the sharing of assets explained: ‘I knew the law, but I did not know how to proceed. I would need guidance, even though I know the law a little.’ That need for credible guidance was expressed differently by different participants.

I knew the law but I did not know how to proceed.

“When I contacted the justice centre I was asking for guidance. I had looked at websites and all kinds of legal information, but it was not answering my specific questions. When you research these legal questions, it is because you are going to do it right away. That was not my case. I was trying to plan ahead, just know what my options were.”

“Eventually I got a lot of legal information about my rights and the law, but what I really needed help with was the procedures, the forms, the applications. I struggled the most with the procedures. I was never sure whether I was using the right forms, Duty Counsel advised me to use Court Services Online but its not possible if you are not a lawyer.”

An interesting point made by some of the participants was about something one might call an ‘indirect need’ – the need for help in making sure that the other party understands the law and their own rights and obligations. The participants often felt that progress in resolving the legal problem they faced was hindered by the other party’s poor knowledge or awareness of the law.

Before she and I talk again, somebody else needs to tell her about the law.

“I am dealing with someone who does not understand the law and who thinks that he is justified acting the way he is, which is illegally. I wish he would get some help.”

“I have moved on and I have tried to explain things to him (former husband) as much as I could, but he needs to hear it from someone else. I understand that.”

“He is very controlling. He thinks that ‘he is the law’. When I learned the law and about my rights because I searched for that information, he does not believe me. I am like a ‘shoo fly, he is shooing me off.”

It was clear in some of the stories participants shared with us that they did not always adopt an adversarial stance and that they were genuinely looking for a resolution that was fair to all. One story that stood out was that of a man whose spouse was not able to get independent legal advice and also suffered from a mental health disorder. For financial reasons and for the benefit of both parties and their children, he felt he needed to gently press his spouse to participate in the divorce proceedings but did not want to take advantage of her vulnerable situation:

“I do not have a lot of tools to resolve the situation, other than starting a legal process, but I would prefer not to. However, my wife is still living in a bubble and is refusing to face reality. Also the legal process could be very long and our financial situation is getting worse by the day. I want to be fair. I tried to find her some legal assistance. I shared some legal information with her. She needs help.”

As might have been expected, several participants talked about their need for legal assistance and legal representation and how hard it was for them to obtain legal assistance at a reasonable cost or no cost. They also complained about the unfairness of situations where they are unrepresented but the other party is. No one claimed that they did not need legal assistance, but everyone tried to deal with the problem they faced with the assistance they got or without any assistance as was often the case. Many of the participants expressed a wish that someone, preferably a competent lawyer, could deal with the whole problem on their behalf. The ideal scenario for many would be for someone else to resolve the problem or make it go away.

One of the reasons participants sometimes cited for wishing that someone would act on their behalf and contact the other party was their fear of the other party. They also expressed fear that unmediated contacts with them may lead to an escalation of the conflict. In family situations where the legal problem was linked to a domestic violence situation, participants often expressed a fear of reprisal, including bringing the children into the conflict.

In one case of non-payment of family support, the participant was worried about the reaction of her ex-spouse’s family, or being ostracized by them, something which would have had immediate consequences for herself and her children. In another situation, the participant avoided direct contact with the other party for fear of putting a child in danger by directly alerting child protection authorities. In a divorce case, one participant feared her husband’s reaction to any action she may take; there had been repeated threats against her and there had been incidents of loud confrontations that got the attention of the

police: ‘There are lots of emotions. If I do anything, it might trigger a bad reaction and then, what do I do? I need someone else to approach him and discuss things calmly.’

Similar fears were also expressed in relation to civil law types of problems. In tenancy disputes, where the parties often live close to each other, people try to calculate the risks associated with any direct contact with the other party.

We needed a buffer, someone who could deal with these awful people for us.

“We did not know how to deal with these people (tenants). We thought that we had our evidence ready for the hearing, but we did not want to deal directly with these people. They were aggressive, loud, uncooperative, and we thought that they could be violent. (...) We needed a buffer, someone who could deal with them for us. (...) We needed assistance, mostly for dealing with these awful people. Our problem had more to do with the fact that these people were difficult to deal with, unreasonable, threatening.”

“Well, I would not do things differently (in a land title dispute following a sale). I tried to avoid conflict. I did not want any violence. The problem was that I was dealing with a dishonest person. This has a lasting ripple effect on the community. I really needed help.”

“I was worried about personal safety. I thought that the former tenants would engage in various reprisals. I was completely stressed out. I did not know what to expect from these people. I could never understand what the issue was from their point of view (...) I think that they were vindictive and just wanted the money.”

The Personal Experience of the Pathways

Another important topic explored with participants was how they viewed their own experience of various access to justice pathways. Since the problem situations occurred during the pandemic, the latter was part of the participants’ experience as well. Bearing in mind that participants were not specifically asked about any of these pathways, but that they volunteered those thoughts as part of telling their story, the following are some of the observations that were captured during the interviews.

Experience of accessing legal information and knowledge of one's rights

With very few exceptions, participants reported that they had been very proactive in seeking legal information once they encountered a legal problem. Although many of them had started by asking friends and relatives for information and advice, the vast majority of them had made fairly extensive use of the Internet to seek information about the relevant laws, their rights and legal obligations, potential recourses, resolution and redress mechanisms, and available support and assistance. Most of them were probably familiar already with the use of technology for various business transactions such as banking, online purchases, and even online courses. What participants sometimes complained about was the fact that the websites they consulted, especially government websites, were not very user friendly. Among the issues mentioned by participants were the fact that the legal information they consulted was often repetitive ('I thought I was going in circles') or sometimes contradictory ('hard to tell which one is the right information'). It was also suggested that the web resources consulted did not always make it clear whether the information applied to British Columbia or to other provinces, or whether it had been updated recently.

There is a lot of legal information out there, but I did not know where to look. It can be a little confusing.

Technological knowhow and access to technology were rarely cited as a problem, but this observation needs to be qualified by the fact that three quarters of the participants had been recruited online after they had sought legal information or assistance online from a service provider. Our findings therefore do not offer much on the question of the technological divide that still constitutes an obstacle for several segments of the population. However, we should note that participants often revealed how creative they could be in seeking information, e.g., asking for help from a friend, borrowing someone's computer, asking for assistance from a librarian, a social worker, or another service provider. One participant who until recently had been unsheltered explained how, for himself and for other unsheltered people facing various problems, he would use his tablet, go near a coffee shop or store, find out the password, and surf the Internet for information and resources.

"I googled anything and everything, also many government websites. The internet searches often pointed to the same articles. These were helpful to a certain point because they told me at least that it was possible to take action."

“There is a lot of legal information out there, but I did not know where to look. It can be a little confusing. What I needed was a step-by-step process.”

With respect to seeking information about the judicial process and court procedures, one participant said ‘This is a supreme court action and I had a hard time figuring out the procedures. I think the procedures are simpler in provincial court. But the judge was trying to be helpful.’ Other participants offered the following observations.

Court staff were helpful. I accessed the library at the courthouse. I did not realize people had access to the library.

“Court staff were helpful. I accessed the library at the courthouse. I did not realize people had access to the library. I got a great education.”

“The Provincial Court had a great guide for people who represent themselves, but for me the biggest obstacle was the financial cost of moving forward (taking action).”

“Court staff are helpful, but they are very busy. More help with procedures and forms would be great.”

Experience of doing things on one’s own

Several participants had to find their own path to a resolution of the legal problem they faced, without legal assistance or with minimal assistance, e.g. with one half-hour legal consultation. At the time of interview, some of them were still trying to find a suitable pathway. For some, the experience was empowering, for others it led to disappointment and feelings of helplessness and injustice. The outcome of the process had a lot to do with these feelings, but it was not the only factor at play. For a few participants, the mere fact that they managed to go through the process without much help was itself a self-affirming victory, irrespective of the outcome of the process.

“I brought the matter before the Supreme Court on my own. I had to learn to be lawyer really quickly. I managed to come through two hearings and I have another one at the end of next month to decide whether my dismissal from the co-op was justified. The judge is helpful. It is like learning to be a lawyer. It takes a long time to study. (...) It becomes difficult to do things properly and as the court expects. I am hoping that the matter will be resolved in my favour next week.”

Other participants felt discouraged. One participant, a recent refugee trying to apply for asylum for his wife and children felt that he was treated differently because he was not represented:

“I felt I was unable to get any response from the Board (Immigration and Refugee Board of Canada) on my wife’s refugee application because I was not represented. I could not get their attention. They ignored me because I did not have a lawyer.”

Some participants found it hard to find the time and energy to deal with the situation on their own: ‘I am not a lawyer and I got my own job to do. It is so hard to find the time to fill up the forms or find the documents’.

I am not a lawyer and I got my own job to do.

For most participants, dealing with a legal problem without legal assistance was seen as a costly and most unwelcome burden, something which affected their quality of life and sometimes also their mental health. For all participants, and for some more than others, the experience was stressful. For many of them, it continued to be stressful since they did not yet see a clear pathway to resolution ahead of them. Not knowing what the next steps are, not knowing how long it will take to resolve a problem, or whether it will be resolved at all, and not knowing what the outcome will be were persistent sources of stress for many. All these sources of stress were of course heightened by various delays encountered in proceeding with various potential solutions. In family cases, participants sometimes referred to how they were ‘held back’ and ‘could not move on’ with their life as long as they were unable to resolve the problem they were facing.

When you try to apply online, there are so many things that can trip you up.

One participant, after exhausting every possible avenue for getting legal assistance, decided to proceed on her own in a family law matter. The process was a struggle and was not yet completed. She shared the following:

“I now represent myself which is very difficult. I filed a first application that was rejected because the wording was wrong. I filed a second one 10 days later (...) and this time it was accepted. There was one ex-parte appearance in January (Family Case Management Conference) and the judge gave me permission for alternate service on the other party (who was in jail at that time). He had 30 days to respond and now I am waiting for the next court appearance.”

Several participants mentioned their fear of making a mistake. Some of them had learned about the consequences of making a mistake in dealing with various procedures on their own. That can be a real setback: ‘you feel like you have to start all over again; it’s discouraging’.

You make one small mistake and you have to start all over again. You don’t even know you made a mistake until its too late.

“You get a name wrong or the wrong date and your application is rejected.”

“When you file a tenancy complaint, the online system is awful. The process is too long and complicated. When you try to apply online, there are so many things that can trip you up. If you make a mistake, you are rejected on a technicality and you loose your \$100.00 fee. That’s a lot of money for me.”

“There are so many mistakes you can make when applying and loading up the information and the evidence, and that may cause your case to be dismissed. I am pretty good at this, but I keep thinking about people who do not have the same means or knowledge.”

“I should have said that I had had a stroke a few days before all this started. I was recovering and my ex-husband was perhaps exploiting that. I had to have someone with me all the time to explain things. (...) I do not know why I thought I could do this by myself. Because of my stroke, I had trouble with words.” He (the ex-spouse) was unwilling to make any concession. He was adamant that he was in the right. He refused to comply with the mediation agreement. For him, it was all about winning. (...) This was all so exhausting” .

Experience of seeking guidance and legal assistance

The participants’ experience of seeking guidance or legal assistance was extremely varied, and so was the kind of assistance they were able to obtain. Several of them had applied to LABC but found out that they did not qualify for the service (usually because of financial ineligibility). Three participants had received legal assistance from LABC. Those who had applied thought that the people at LABC were polite and helpful, but that the process took too long. As one person commented: ‘I feel that I was left hanging. Meanwhile the clock was ticking’. A few people had received help in applying for legal aid, as was the case for one woman who had recently escaped from a domestic violence situation and was supported during the application process:

"I had no other option than legal aid. I did not know about legal aid but my worker (a transition home staff) told me about it and helped me apply. They agreed to help me. Now, I can hope".

One person, reflecting on his own experience and that of other vulnerable people, shared the much less hopeful perception:

"People on the street are sometimes hesitant to ask for help. Many of them suffer for mental health issues; they don't want to be negatively labelled. Some of them are in trouble with the law. Some of them act like frightened animals, but others act as animals towards them. The police are not doing much to help homeless people. There is not much point in asking them for help. When you seek help, like welfare, you walk in and they always ask 'how can we help you?' and then they do nothing to help you. (...) What's the point in asking for help? It seems that many of these people have been trained to say no, no matter what".

"I went to the Salvation Army and I explained my problem. They were nice and they listened, but that did not help me with my problem."

Others shared similar stories of frustration and isolation:

"I went to different organizations that offer services to new immigrants and asked for assistance with my wife's immigration problem. They could only provide information. I was still left on my own."

"I did not ask for help from anywhere else, just legal aid and my friends. I don't want to do something that will affect my permanent resident application."

"I contacted a law firm to see how they could help me. They wanted a lot of money up front. The legal assistant gave me the wrong information. Anyway, I could not afford them. She said I could not qualify for pro bono assistance. I think she was wrong."

"All I needed was a little advice. With advice from the lawyer (short consultation with Access Pro Bono lawyer), I initiated a complaint before the Online Civil Resolution Tribunal. Eventually I removed the complaint when the matter resolved itself."

"I am complaining to the Residential Tenancy Board for the second time. The first time, it was very complicated. I would have won my first tribunal if I had had a lawyer. They make out to say that you don't need one, but it is not true. Too complicated. This time, at least, I am getting some support from the Access Pro Bono lawyer. It makes a difference."

“Through the Access to Justice Centre, we were referred to Access Pro Bono and both my wife and I were provided an ILA (Independent Legal Advisor). It is my spouse ILA that persuaded her to apply for spousal support. Not what I was expecting.”

“I tried many avenues to get legal assistance. My daughter applied for Legal Aid for me but then I got a job and so no longer qualified for assistance. I tried googling for local lawyers but the two that I contacted declined. I also tried to find a lawyer through Lawyer Referral and I got two declines and one no response. The lawyers who declined to take my case said that the matter was beyond their expertise.”

“Unless I am a criminal, I am unable to use legal aid. This is incredibly frustrating. (...). It’s a half-assed system.”

One participant who had been judged not legally competent to make decisions about his own affairs, complained: “No one is willing to listen to me. I cannot get help”.

One participant who happens to work for a community-based agency which helps people deal with employment issues mentioned that he frequently has to refer clients to lawyers because his clients do not know their rights. Unfortunately, he added ‘the locally available legal services are little bit overwhelmed’.

Experience of mediation and arbitration

Many participants had the experience of participating in a mediation process, usually for a family law related issues, but not always successfully. Participants dealing with a residential tenancy issue were often familiar with the arbitration process involved in such matters. Most participants who had experienced these processes had a very positive experience of both the mediation and arbitration processes. They were generally satisfied with the process per se, but sometimes complained about the delays encountered before proceeding, delays which they attributed to the case backlog created by the pandemic. One participants confided: ‘I have already recommended that process to others in the same situation many times already’. Another participants stated: ‘I felt very well supported . (...) I am very grateful. The arbitrator was extremely helpful and fair’.

I am very grateful. The arbitrator was extremely helpful and fair.

The concerns expressed by participants were not so much with the processes themselves or their outcomes, but with the lack of mechanism for ensuring compliance with these outcomes by both parties.

I wish I could go through another mediation since the first agreement did not hold.

“I wish I could go through another (family) mediation since the first agreement did not hold, but apparently that’s not an option.”

“I would probably have hired a private mediator, rather than waiting to get one and going back and forth. I was grateful that it was free. I already had the lawyers fees that I eventually paid.”

In family law cases, the parties were advised by mediators to seek independent legal advice before signing the agreement reached as a result of the mediation. For several participants, this second part of the process did not go as smoothly as they had hoped. In some cases, the independent legal advisor (ILA) for one of the two parties recommended against signing the mediated agreement. This was a very discouraging development for the individuals who thought that they had participated in the process in good faith, and that the signing of the agreement was a mere technicality. In such cases, the individuals felt like they had reached a dead-end and were still very much puzzled about what to do next, especially if they could not afford retaining the services of private counsel.

“Now I don’t know what to do.”

“I don’t know how much he (the lawyer) understands.”

“I met with my independent legal advice lawyer yesterday and he is questioning the child support arrangement that I had agreed to (no support payment in exchange for his abandoning claims against her pension benefits and assets). Now that I have talked to the lawyer, I am questioning my decision. He got into my head.”

“Mediation gives full transparency to what is being said. Lawyers, no I don’t trust them. There are good and bad people in every occupation, but in my experience they want to encourage bickering between the sides (...); but with mediators, everyone is on the same page, working together, in the same meetings. Lawyers keep parties separate.”

Experience of legal representation

Bearing in mind that the majority of participants did not receive much legal assistance and were not represented by a lawyer, their limited experiences of legal representation also varied, oscillating between distrust, confidence, and gratitude for the legal support received. Affordability and costs of legal services were always at the centre of people's considerations, unless they could access free legal support. A few people complained about not getting enough attention from the lawyer who represented them. Several participants expressed satisfaction with the legal assistance they had received.

I relied on a duty counsel. They were so great, I was in awe of what they could do.

"I was fortunate to meet a lawyer who was reasonable and so helpful."

"The lawyer I found was very understanding. I was so lucky. He offered unbundled services and allowed me to do some of the work myself, like photocopying, putting together binders, and other things, to limit the costs. The costs were very reasonable. I don't like owing money. I made sure that I could make full payments for the retainer and other payments. I got a little break for that, a 15% discount on the lawyer's bill."

"Before I could retain my own lawyer, I went to my first hearing and I relied on a duty counsel. They were so great, I was in awe of what they could do."

"I consulted a private lawyer a couple of times, but then I found out from my ex-wife that mediation was a possibility. I guess that's better and cheaper. I guess I can always go back to the lawyer if the other thing doesn't work".

"Both of my lawyers were great. They did their job. I could not have asked for better."

However, not all participants had had a positive experience with the kind of legal assistance they had access to and their relationship with their lawyer. One participant felt that his legal aid lawyer did not represent his interests and had perhaps 'sided up with the child protection people'. Other participants shared the following during their interview.

"I have no reason not to trust lawyers, but sometimes I don't know."

"You have to understand that when you deal with a pro-bono lawyer, you have a very limited amount of time to explain your problem. Prior to my last visit, I only had a few minutes to explain the situation."

“I do not trust duty counsel available in court; they don’t do much for you. When I have a problem I deal with it on my own; I don’t know whether it is a legal problem.”

“At first, I trusted the advice of my legal aid lawyer. I had to. I did not know anyone else to turn to. But I did not agree with his advice about the property. I trusted my family and friends more than the lawyer. He did not support me. I still don’t trust him, but I don’t have a choice.”

“The legal aid application was slow and I was all by myself, waiting. The lawyer didn’t help at all. I am not sure she was very interested”.

“The lawyer I first talked to told me to abandon the whole thing (a discrimination and unlawful dismissal matter). That felt dismissive and disappointing. I ignored his advice and proceeded anyway and got support from other sources. He was dead wrong.”

Since several participants had been referred to our study by Access Pro Bono, many of them shared their views about their own experience with that particular service. Most of the comments were positive, in particular about the half-hour consultation which was very much appreciated and in some cases offered just enough guidance for the person to take action confidently.

Participants often referred to the fact that Access Pro Bono was able to confirm their own interpretation of the law and the process to be followed, something that was a determining factor in their approach to

The people I dealt with when I applied were efficient and supportive. They took the time to listen and to explain.

the legal problem with which they were dealing. The 15 participants who had contacts with Access Pro Bono, sometimes more than once, generally expressed their satisfaction with the support they received.

“Both times that I contacted Access Pro Bono for help, the people were genuine, they were really trying to help. The people I dealt with when I applied were efficient and supportive. They took the time to listen and to explain.”

“Every time I panicked, I kept calling Access Pro Bono for help. They were helpful.”

“This wonderful lady at the Access Pro Bono gave me the link to a great website. Once you contact the people it’s fine. It is the back and forth that’s frustrating.”

There were only a few exceptions to these positive experiences. Some of participants who had used the services noted that they had experienced long delays before receiving a response.

“Access Pro Bono were not able to act fast enough. The law firm was using that as a test for the kid (the lawyer). They need to be brought into the circle a lot earlier. The lawyer was inexperienced. I suppose they were letting the kid make his own mistake. They used it as a training ground for future lawyers.”

“Access Pro Bono were very slow. There were always delays. They were asking for a lot of financial information. That took me a couple of weeks and there was not really a lot of support.”

Experience of courts and tribunals

Several participants had a recent experience with courts and tribunals. By and large, the experience had been a positive one for them, although the procedures that needed to be followed were sometimes very intimidating. One participant said she wished courts could communicate more simply with her: ‘I am not a lawyer (...)They need to dumb it down’. The following are a few stories about the participants’ experience in a family court:

It was wonderful when the judge spoke to him (the son).

“One thing I did like: we had to meet with a judge mediating. That was a great experience. He could not tell us what to do. At some point the judge wanted to talk to my son in his Chamber. That was so important. My son until then felt that he had no voice. That was very good for him. I wanted him to be heard. The child had two individual interviews, and the judge talked to me alone in Chamber. It was wonderful when the judge spoke to him.”

“The court experience was scary. Your whole personal life is being exposed. I felt safe with my lawyer. I had never been to a courthouse before, except in Ontario a long time ago as a juror. The whole process is very intimidating. There was a bit of a wait, but in the end it all worked out.”

“The judge was trying to be helpful but he remained fair.”

“I had a lawyer, but the outcome was disappointing. (...) The process was fair enough. I understand the rationale. It was a fair decision.”

“The law isn’t necessarily fair. (...) This totally depends on the judge – it could go either way. (...) I have very mixed feelings. (...) For people who can’t afford counsel, it is very difficult.”

“It would be extremely helpful for the system to be more user friendly regarding which court forms to use; the registry couldn’t help. The system is currently in transition. You can apply online, which is good because otherwise you would have to apply in the city where the child lives. It would be difficult for me to apply in person in Vancouver. However, the registry staff was not familiar with the online system and the system does not provide information on which forms to use. Once in the system the form is easy to complete, but I ended up with two different forms; this was a system hiccup that confused me and the registry staff. Its not been smooth at all.”

Experience of online processes (hearing, arbitration, mediation)

Given that their experience of trying to resolve a legal problem had occurred during the restrictions imposed because of the COVID-19 pandemic, participants rarely seemed to dispute the necessity of proceeding online when possible. The two participants who had experience with the online Civil Resolution Tribunal were very satisfied with the experience.

Although online hearings had their own limitations and logistical issues, participants usually commented on how online hearings and processes had made things much easier for them. One participant explained that, at first, using Microsoft Teams was stressful, but that it had actually made things a lot easier for her: she did not have to travel to court, find parking, or deal with the other logistical challenges of getting to court. Her mother could sit with her and help her during the hearing. Once the hearing took place, the matter was resolved fairly quickly. She added that sometimes she would have liked to be in person in court as she thought that it might ‘help the judge to get a sense of who you are’. In another instance, a participant appreciated the fact that, during family court proceedings that had dragged on for a long time, her spouse who had been out of the country for over a year finally agreed to participate because the hearing was online.

Experience of delays and their impact

Given the impact of the COVID-19 pandemic, all participants had experienced various delays in accessing services and resolution mechanisms. They mostly had been expecting these delays and the professionals they dealt with often warned them about delays and tried to manage their expectations. The consequences of the delays were not the same for everyone, depending often on the urgency of the situation created by the legal problem they faced. For example, people facing eviction from their home mentioned how a delayed resolution of their problem

was almost as bad as no resolution at all. In family related problems, the delays sometimes added to the emotional and financial stress people experienced. In a few instances, people's inability to find legal assistance had prevented them from taking action within the prescribed timeframe.

"All this time waiting for a resolution (of a civil law matter) is very stressful. My husband was fine, but I was really afraid and stressed out. That represented a lot of money for our family and I don't know how we would have coped if we had lost the case. (...) They served us with the papers in July and the hearing was set for November. That was a long time to wait."

"It took too long to file a complaint with the arbitration board. This was due to not being able to get legal assistance from either Legal Aid or Access Pro Bono. By the time I got help, it was too late to take action."

"I think that they (Residential Tenancy Branch) are facing a backlog of complaints. Everything is so slow. My landlord is getting away with his illegal scheme."

"After months, we are still waiting to go through mediation, but that's not really a problem. The division of assets (divorce) can wait because the other aspects of the divorce are not an issue."

"I am supposed to be hearing from the Employment Standard Branch but my lawyer tells me that it will be months before this is heard. I just have to wait."

"Things are going fairly well so far (ongoing divorce proceedings), except for the financial situation. COVID-19 isolation made things a little more difficult. The delays are costly because we are unable to move ahead with the division of assets. At this point our financial situation is pretty dire."

Experience of obstacles to access to justice

During the interviews, participants rarely elaborated on the obstacles they had encountered on the path to access to justice. However, they occasionally mentioned some of them, as exemplified by the following sample of the obstacles mentioned during the interviews:

"Homeless people do not have the energy to fight for their rights. They often do not know what their rights are. They do not have the right information."

"When you move a lot, it is hard to keep your papers in order, to keep track of time, to document what you are doing properly. (...) We never put anything in writing. (...). Then, when you try to defend your rights, you do

not have what you need. For example, you cannot document that you have served notice, or that there was an agreement.”

“My ID had the wrong address on it. They did not want to accept that.”

“As a new immigrant I was worried about telling people about my situation (irregular migrant). If I complain, I may be deported.”

“If you were illegally expelled from your home, how do you fight? You may not have a fixed address (...). Even going to arbitration is difficult when you don’t have a permanent address.”

“My ex-husband is out of the country and he is ignoring everything I am trying to do to resolve the situation.”

Financial costs were also mentioned as obstacles to access to justice

“The biggest obstacle was the financial cost.”

“The lawyers wanted more than \$11,000 to deal with an application for refugee status. There is no way I could afford that”.

The Outcomes of their Efforts

In some instances, at the time of the interview, participants were still trying to resolve their problem and the final outcome of their journey was not yet known. A few people confessed that they did not know where they stood, or whether they were still on a path to a potential resolution. They were feeling helpless, lost, and unsupported. Only one person had apparently given up on trying to resolve his legal problem (in that case, a three-year old unlawful eviction issue with a previous landlord). Two persons had stopped all action but thought that they might reinstate their claim at a later date, depending on their own circumstances.

When the legal problem they were struggling with had been adjudicated or otherwise settled, the participants always seemed willing to accept the outcome, even if it was not what they had expected or hoped for. However, the problem for some of them was that the decisions or agreements that resulted from these processes were not consistently enforced. A few participants also commented on what they experienced as unfairness.

I do not know where I am at – feeling lost

A few participants expressed their confusion about the process they were engaged in, as if the path they were on seemed to have vanished.

I really don’t know where we are at. No one seems to be able to tell me.

“I really don’t know where we are at. No one seems to be able to tell me.”

“My lawyer, (...), switched firms and promised to contact me, but I have not heard from her yet. Just an e-mail three months ago. She has not followed-up yet. (...) I don’t know what the next steps are. I am not sure what to do.”

“My wife, after receiving legal advice on our agreement (the result of a family mediation session), refused to sign the agreement. She did not say why. I have just been waiting. Neither one of us a lawyer. I do not know what’s next.”

Feelings of helplessness, anxiety, fear

The participants occasionally shared some of their feelings about the experience of access to justice. Although several participants felt positively about their experience, a few shared intense feelings of helplessness, anxiety, and fear.

At some point, everything is too much, too complicated.

“We went by the book, gave proper notice, acted in good faith, but these people kept trying to create trouble for us. They threatened us. (...) These people scared me. How can you deal with people who are not prepared to be reasonable, or honest? This was all extremely stressful. The anxiety was horrible. (...) I thought we had a solid case, but you know”

“We had a mediator (child access and custody issue). After that, my husband said that he would stopped acting badly. But he did not. The mediator has no power to compel him. It’s our job as adults to do what is right. (...) I am going crazy.”

“The whole experience was scary, overwhelming and very confusing. I had a lot of anxiety related to this. Eventually, after a long time, I went through family mediation and the child custody issue was worked out.”

“At some point, everything is too much, too complicated. I fear I can’t cope with this.”

“I have some recourses but I do not have the means to do anything. I was fired, that’s what I am fighting, but I am not earning anything. I was turned down and I can’t get a lawyer.”

“The matter is still in limbo. (...) I’m very frustrated. (...) This feels like a let down and a social injustice. I feel like I can’t defend myself because I can’t afford it. If I was in a different income class I would have better access.”

“It’s been a huge, horrible ordeal (referring to court proceedings involving MCFD and a complaint registered with the ombudsman).”

“They could afford a lawyer and I could not. They knew I could not afford to defend myself, to defend my rights. They took advantage of that.”

Elusive resolutions – enforcement of judgments/agreements

Although the justice system may consider a matter resolved once a judgment has been rendered or an agreement has been reached by the parties following a mediation or other process, the experience of study participants showed otherwise. Many of them found that enforcing a judgment or an arbitration decision was very difficult: ‘You are left on your own’ was a recurring theme in the stories we heard:

When the court decision is ignored, what can you do, really? Can you afford to go to court again? Do you even have the energy?

“When the court decision is ignored, what can you do, really? Can you afford to go to court again? Do you even have the energy? What’s the point, really?”

“The other guy knows that you are exhausted and that you will not do anything about non obedience. It’s hard to know what to do.”

“Seeking compliance with a court order is very difficult when the non-compliant party is the government (in this case, MCFD).”

“They pretended to comply with the court decision, but they just dragged their feet and in the end did nothing (in this case, a municipal government).”

“My husband signed a separation agreement that he is not respecting and is no longer willing to accept. I wish someone else could intervene and force him to live up to it (the agreement). This time, I will really need help to go through that again.”

Two areas where non-compliance issues were frequently cited by participants were: the enforcement of family maintenance orders and residential tenancy arbitration orders.

Participants did not refer by name to the British Columbia Family Maintenance Enforcement Program, which can issue court action requiring the payor to attend court to explain why maintenance payments aren’t being made. Some of them were pessimistic about what they could expect from a new court action, given the fact that a previous decision had no effect. One participant

noted the added financial hardship involved by the delays and the efforts required to deal with a new court action: ‘There are financial consequences for the children and I can hardly cope already’. Another participant in similar situations, shared the following:

“This has been going on for a long time. I got very little help from legal aid, a duty counsel. It has been well over a year since I complained. It’s an uneven fight because I am defending myself and he is represented by private counsel. I don’t think that I am going to win this, but I have to try for my daughter.”

Participants also shared several stories about landlords refusing to comply with an arbitrator’s decision concerning a tenancy issue, and in particular, issues relating to unlawful evictions. One low-income participant who faced unlawful eviction with an ‘abusive’ and ‘threatening’ landlord complained to the Residential Tenancy Branch for a second time, but was intimidated by the landlord into withdrawing his complaint.

Indeed, the fact that the non-compliant party to a family or civil law dispute was using various forms of intimidation, including ‘threatening letters from a lawyer’, to dissuade a person to take further action was mentioned more than once, but rarely relayed in detail during the interviews. Those who experienced that kind of situation mentioned that they felt vulnerable and unprotected. One of these participants said that he ‘needed a champion’, ‘someone in his corner’ to create a balance.

Other consequences

Participants sometimes shared other aspects of their experience of access to justice. Some of these experiences were positive: ‘I am making new friends as a result of the problem – It’s really funny’; or, ‘I got an education’. Other experiences were debilitating and had an impact on the person’s quality of life.

I am making new friends as a result of that problem. It’s really funny.

“The whole thing (dispute with child protection authority over visiting rights and a child placed in adoption). They were horrible. It affected my mental health. That was a major reason for my relapse (substance abuse). I have just about given up on trying to ever reconnect with my son. (...) I feel guilty about it, but I wonder whether I should not just accept the situation. (..) I wish I knew how my son now feels about it all.”

“I don’t know whether my children will understand that I did all I could for them. Part of me feels that I should have done more.”

“I did not do anything to deal with the eviction notice (tenancy) and I ended up homeless, living on the streets, unable to do much about my legal problem.”

“If I fail, there will be financial consequences for my children. One of them has special needs”.

“In the end, none of this mattered much (referring to complaints registered with the Residential Tenancy Branch) because my husband died suddenly and the landlord took advantage of that to forcibly expel me from my home. (...) I was hysterical, I did not know what else to do. The goons beat me up and pushed me around. They took my cats. (...) This was the beginning of a very rough patch for me. I need more help to get out of this shitty situation”.

What People Learned from their Experience

Some participants were still in the process of trying to resolve their legal problem and were reserving their final opinion until after the matter was concluded.

Don’t quit because its hard, the system is designed to be so hard so you will quit.

However, many participants shared with us some of what they had learned from their experience of trying to access justice. In some cases, that was the very first thing that people wanted to share with the researcher. The participants’ level of emotional engagement with the issue obviously varied with their own circumstances and with the nature of the problem that they were facing. A few of them were visibly emotionally distraught because of the problem they were facing and the attitude of the other party. However, strong emotions about their own experience of access to justice were rarely expressed by participants, as if there was some level of resignation already about what the justice system could or could not be expected to do for them, particularly during a pandemic.

Many participants had a generally positive view of the process they went through or were going through to resolve a

It was hard, but I was inspired in the end.

legal problem. Often, this seemed to rest on a specific positive experience during the process. These experiences were generally tied to specific individuals, rather than to the nature of the process itself. This included: a helpful lawyer, a supportive librarian or staff at a court reception desk, a compassionate mediator, a quick ‘warm’ referral to another service, or even the help of a technician in

using an online tool. In particular, people appreciated the fact that some busy service providers took the time to explain things to them.

“I was fortunate to meet a lawyer who was reasonable and so helpful. I am not alone in my situation. So many people are in the same situation, but don’t get help.”

“This was a very difficult experience, but I got good help (legal aid lawyer). Now, I am back to school. I would like to become a paralegal. It was hard, but I was inspired in the end.”

“I did not even know that this (the Civil Justice Tribunal) existed. What a pleasant experience that was. I thought that it would be much harder to get a judgment. You just have to get familiar with the online system, but they were helpful with that too.”

Although not precisely in those terms, participants sometimes referred to the need to develop their own legal capacity or self-agency in order to fully benefit from any services or mechanism that might be available to them. One of the lessons many of the participants retained was that one needs to be proactive to get results. In the end, you have to make your own decisions; not all the advice or assistance one receives is necessarily helpful or useful. In the words of one participant dealing with a child custody issue:

No one will push the system for you.

“People need to be their own advocate. I tried to call them (Family Law Line) several times and I got different answers from different people. I got a different level of help from the same person on different days. People can have bad days. My advice to others would be: don’t give up if one person says no, the answer isn’t necessarily no.”

“I was totally stressed out at the start of the process. Now, I have learned to trust my own judgement. You know, I used to fret about not getting things done quickly enough, like getting all the documents, but now I know the justice system is slow. I think that it is even slower, without a lawyer.”

“No one will push the system for you. You have to push to get answers and get things moving.”

“Sometimes, my husband’s lawyer was trying to confuse me, maybe make things more complicated for me. It just made me work harder to get things moving. She (the lawyer) did not fool me.”

Many if not most participants had experienced situations where they applied for assistance but did not qualify to receive that support. Those

rejections, although disappointing, seem to have been fairly well accepted by people as long as the decisions in question appeared to have been made fairly. In particular, people appreciated it when someone took the time to explain the decision to them or explain how they could reapply or apply for a different service.

Conversely, not receiving a response, receiving a response once it was too late to benefit from the service they applied for, or receiving a formal impersonal notification of a negative decision were occasionally part of the participants' experience. These experiences often seemed to affect their opinion of the whole access to justice process. A participant who had registered an employment standards complaint and received what he described as 'the run-around' said: 'I can see why so many people abandon their claim. Even talking about it, I get so pissed off'. He also speculated that encouraging people to withdraw their complaint was perhaps the whole purpose behind the long delays and the lack of responsiveness of that particular access to justice mechanism.

Another participant who was dealing with a child protection issue which involved the British Columbia Ministry of Children and Family Development shared the following:

"Other people should know this: Don't quit because its hard, the system is designed to be so hard so you will quit. If less people make it to the finish line its less costly for system. (...) The law is in your favour even if you are up against a wall."

Opinions of the justice system, legal aid and other services

It is probably fair to say that most of the participants had seen their opinion of the justice system, and the various legal information and existing access to justice services, change as they try to resolve their legal problem. Many of them did not really have an opinion about the justice system before they encountered a legal problem. Several of them admitted that the system was not at all what they had expected, in particular they were surprised by the use of technology and virtual hearings. This was especially true of the many participants who were experiencing a legal problem for the first time.

When participants had formed an opinion previous to their recent contacts with the system, their opinion either improved or deteriorated. It was hard to determine what had changed their opinion, but it was not necessarily the outcome of the process. If negative, the opinion appeared to be mostly motivated by what was interpreted by the individuals as the system's unresponsiveness to their needs or situation, most often their experience of a particular

service/agency, authority, or individual service provider. A few participants expressed their general dissatisfaction with the justice system as a whole, whether or not that view resulted from their most recent experience of access to justice.

Conclusions

Understanding the pathways to access to justice has been identified as a key priority for stakeholders working within the civil justice system (Currie, 2018). Although there is a growing body of evidence highlighting the incidence of legal problems, much less is known about the pathways people take to resolve these problems. In British Columbia, specifically, there is a paucity of research on the pathways people take to resolve their civil and family legal issues. Knowing the pathways people take is essential in making sense of how people's legal needs are met (Access to Justice BC, 2017).

The study reported here barely begins to fill that knowledge gap. It employed qualitative interviews to understand the main pathways people use to resolve civil and family justice problems, the barriers or obstacles they encountered, the assistance they sought and sometimes received, and the decisions they made along the pathways. Inspired by the methodology used by Pereira and her colleagues for their 2015 report, *The Varying Paths to Justice*, exploratory qualitative interviews were used to allow space for participants to share their story openly and freely. While the qualitative findings of this report may not necessarily be generalizable, they nevertheless complement existing quantitative data by shedding light on how people navigate the justice pathways.

The study provides insights that may inform future research. Six major themes emerged which all warrant further examination:

- The nature of the legal problems people encounter and how they are affected by them
- The needs for support and assistance people experience in trying to resolve family and civil law problems
- The problem resolution routes people choose and the decisions they make along the way
- The people's personal experience of these different pathways
- The outcomes people achieve through these pathways
- The lessons people learn from their experience of various problem resolution routes

The approach was fruitful and produced an initial picture of people's lived experience of access to justice. The participant recruitment method was unexpectedly successful and could serve as a basis for a broader study with a more representative sample of British Columbians. The fact that the participants were recruited from Access Pro Bono, Access to Justice Center, People's Law School, or a social service organization may have skewed our results towards the experience of individuals who were more resourceful, or connected, than others. People who were unaware of their rights or potential recourses or people who had entrusted an agent or a legal counsel to deal with their problem were unlikely to be included in the study. However, the fact that all study participants had a direct, personal and recent experience of trying to resolve a legal problem created a unique opportunity to observe people's legal capability and to capture people's own reflections on the problem solving routes they had chosen.

As another comment on methodology, perhaps not surprisingly, especially within the context of the COVID-19 restrictions imposed on normal social interactions, many of the study participants were eager to share their story or simply to have someone to talk to about their experience. One participant, after a 90 minute interview, shared that he had hoped that the interview would last longer and that he did not want it to end. Some participants commented on the fact that the professionals they worked with while dealing with their legal problem – service providers, lawyers, mediators – had very limited time to actually listen to their full story. These comments were more likely an expression of the participants' unmet need to share their experience with someone than a criticism of the services they received from these professionals.

Study participants demonstrated different levels of legal capability and, consequently, had differential access to problem resolution routes and made different use of the legal assistance and other resources available to them. Two participants who had previously worked in the justice system thought that they were capable of dealing with their legal problem, but nevertheless struggled with some of the obstacles they encountered along the way. However, and perhaps very significantly, it appears that people's legal capability grew as they moved along various access to justice pathways. Some participants actually reflected on what they had learned from their experience of trying to resolve a legal problem, how they had sometimes been empowered by the legal information and assistance they received, and how they had developed legal capability and agency.

In almost all cases, the participants' experience of access to justice had been stressful. They tended to see the justice system as complex, difficult to understand, and hard to access. Most participants had been able to access some

useful legal information. They often commented on the fact that there was a lot of information available to them, but that finding the specific information they were looking for remained a challenge. They needed further guidance on how to use that information. They were looking for more concrete information about process, procedures, legal requirements, and the like. Many of them spoke of a critical juncture at which they needed confirmation that their own interpretation of the law was correct or that their choice of a course of action was sound. These observations suggest that legal capability was further developed and co-created with system actors as the participants moved along the various pathways.

There is obviously still much to learn about how access to justice pathways have been affected by the COVID-19 pandemic. As mentioned previously, the study covered people's experience of access to justice at a time when a public health crisis had not only deeply affected their life, but also nearly paralysed the justice system itself. Participants were generally prepared to make allowance for the fact that the justice process and the delivery of related services had been affected by the pandemic. Many of them referred to the fact that they had been warned to expect delays because of case backlogs and shortages of staff nearly everywhere. However, many participants shared how they had been affected both financially and emotionally by these delays. They often felt that the problem(s) they were facing had gotten worse as a result of the delays. In a few instances, participants complained that the delays had been consciously and sometimes illegally exploited by the other party to gain an advantage or to avoid being held accountable for their conduct.

References

- Abel, L. K. (2012). *Economic Benefits of Civil Legal Aid*. New York: National Centre for Access to Justice at Cardozo Law School.
- Access to Justice BC (2017). *Access to Justice Measurement Framework*. A project funded by the Law Foundation of BC.
- Action Committee on Court Operations in Response to COVID-19. (2020). *Terms of Reference for the Action Committee*. Ottawa: Action Committee.
- Austin, W., Williams, T. A., Worchel, S., Wentzel, A. A., & Siegel, D. (1981). Effect of mode of adjudication, presence of defense counsel, and favorability of verdict on observers; evaluation of criminal trial. *Journal of Applied Social Psychology*, 11(4), 281-300.

- Balmer, N. J., Buck, A., Patel, A., Denvir, C., & Pleasence, P. (2010). *Knowledge, Capability and the Experience of Rights Problems*. London, United Kingdom.
- Birnbaum, R., Bala, N., & Bertrand, L. (2012). The rise of self-representation in Canada's family courts. *Canadian Bar Review*, 91, pp. 67-95.
- Byrnes, J. (2015). *Economic Impact and Social Return on Investment Analysis*. Tucson, Arizona: Alabama Network of Family Resource Centers and Alabama's Legal Aid Organizations.
- Byrom, N., Beardon, S., Kendrick, A. (2020). *The Impact of COVID-19 Measures on the Civil Justice System*. London: The Civil Justice Council & The Legal Education Foundation.
- Canadian Bar Association. (2021). No Turning Back: CBA Task Force Report on Justice Issues Arising from COVID-19. Retrieved from: https://www.cba.org/CBAMediaLibrary/cba_na/PDFs/Publications%20And%20Resources/2021/CBATaskForce.pdf
- Canadian Forum on Civil Justice (2016). *Selected Annotated Bibliography: National and regional legal needs surveys, 1990-present, June 2016*.
- Capp, M. K. (2021). Will the COVID-19 crisis help us trace a path towards more equitable access to justice? *Annual Review of Interdisciplinary Justice Research*, 10, pp. 121-142.
- Cavallari, P., Devlin, M. D., & Tucci, R. A. (2014). *Justice Measured: An Assessment of the Economic Impact of Civil Legal Aid in Arkansas*. Little Rock, Arkansas: Arkansas Access to Justice Commission and the University of Arkansas Clinton School of Public Service.
- Clark, S. & Forell, S. (2007). *Pathways to justice: The role of non-legal services*. Law and Justice Foundation of New South Wales.
- Citizens Advice. (2021). Life through Lockdown: What Citizens Advice Data Tells Us about the Year Everything Changed. Retrieved from: <https://citizensadvicegateshead.org.uk/wp-content/uploads/2021/03/Life-Through-Lockdown-report-on-national-Citizens-Advice-data-March-2021.pdf>
- Coumarelos, C., Macourt, D., People, J., McDonald, H, M., Wei, Z., Iriana, R., & Ramsey, S. (2012). *Legal Australia-Wide Survey: Legal Need in Australia*. Sydney: Law and Justice Foundation of New South Wales.
- Currie, A. (2009). *The legal problems of everyday life - The nature, extent and consequences of justiciable problems experienced by Canadians*. Ottawa: Department of Justice Canada.
- Currie, J. (2018). *What do we want to know about access to justice in BC?*. Victoria: Access to Justice Centre for Excellence, University of Victoria.
- Daisley, B. (2020). Everyday Legal Needs 2020 Survey. Vancouver: Legal Aid BC. Retrieved from https://legalaid.bc.ca/sites/default/files/2020-09/Everyday%20Legal%20Needs%20Survey_1.pdf

- Dandurand, Y. (2017). *Data Mapping Survey: Indicators for Criminal Legal Aid and Immigration and Refugee Legal Aid*. Ottawa: Report prepared for the Evaluation Division, Department of Justice Canada, July 2017.
- Dandurand, Y. & Jahn, J. (2018). *Measuring the Economic Impact of Family Legal Aid in British Columbia*. Vancouver: Law Society of British Columbia.
- Denvir, C. (2014). What is the net worth? Young people, civil justice and the Internet. Doctoral Thesis. University College London.
- Department of Justice and Regulation (2016). *Access to Justice Review*. Government of Victoria.
- Eagly, I., V. (2015). Remote adjudication in immigration. *Northwestern University Law Review*, 4(109), pp. 933-1019.
- Equality and Human Rights Commission. (2020). *Inclusive Justice: A System Designed for All*. London: Equality and Human Rights Commission.
- Farrow, T., C., W. et al. (2021). Measuring the Impact of Legal Service Interventions. York: Canadian Forum on Civil Justice. Retrieved from: <https://cfcj-fcjc.org/our-projects/measuring-legal-service-interventions/>
- Forell, S. & McDonald, H. M. (2015). *Beyond Great Expectations: Modest, Meaningful and Measurable Community Legal Education and Information*, Justice Issues, paper 21. Sydney: Law and Justice Foundation of New South Wales.
- Fragomeni, B., Scarrow, K., & Mcfarlane, J. (2020). *Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the National Self-Represented Litigants Project, 2019/2019*. Windsor: National Self-Represented Litigants Project.
- Galanter, M. (1974). Why the “haves” come out ahead: Speculations on the limits of legal change. *Law & Society Review*, 9(1), pp. 95-160.
- Gramatikov, M. (2009). A Framework for Measuring the Costs of Paths to Justice. *The Journal Jurisprudence*, 2, p. 111, TISCO Working Paper Series on Civil Law and Conflict Resolution Systems No. 006/2008
- Gramatikov, M. A. & Porter, R. B. (2011). Yes I can: Subjective legal empowerment. *Georgetown Journal on Poverty Law and Policy*, 18(2), pp. 169-199.
- Gramatikov, M., Barendrecht, M., & Verdonschot, J. H. (2011). Measuring the costs and quality of paths to justice: Contours of a methodology, *Hague Journal on the Rule of Law*, 3(2), pp. 349-379.
- Griener, D. J., Jimenez, D. & Lupica, L. (2017). Self-help, reimagined. *Indiana Law Journal*, 3(92), pp. 1119-1173.

- Hagan, M. (2016). The user experience of the Internet as a legal help service: Defining standards for the next generation of user-friendly online legal services. *Virginia Journal of Law & Technology*, 20(2), pp. 395-465
- Haigh, R. & Preston, B. (2021). The court system in a time of crisis: COVID-19 and issues in court administration. *Osgoode Hall Law Journal* 3(57), pp. 869-904.
- Helmer, A. (2020, May 16). 'There is no going back': How COVID- 19 forced courts into the digital age. *Ottawa Citizen*.
- Heurer, L. B. & Penrod, S. (1986). Procedural preference as a function of conflict intensity. *Journal of Personality and Social Psychology*, 51(4), pp. 700-710.
- Houlden, P., LaTour, S., Walker, L., & Thibaut, J. (1978). Preference for modes of dispute resolution as a function of process and decision control. *Journal of Experimental Social Psychology*, 14(1), pp. 13-30.
- Irvine, M. (2014). *A 108% Return on Investment: The Economic Impact to the State of North Carolina of Civil Legal Services in 2012*. North Carolina Equal Access to Justice Commission.
- Jacobs, L., Kryszaitys, D., & M. McManus (2015). *Paths to Justice and the Resolution of Consumer Problems*. Findings from the 2014 Everyday Legal Problems and the Costs of Civil Justice in Canada National Survey. Toronto: Canadian Forum on Civil Justice.
- Jones, M. (2010). *Legal Capability*. London: PLENET. Retrieved from <https://lawforlife.org.uk/wp-content/uploads/2013/05/legal-capability-plenet-2009-147-1-147.pdf>
- Katsh, E. & Rabinovich-Einy, O. (2017). *Digital Justice: Technology and the Internet of Dispute*. Oxford: Oxford University Press.
- Kushner, J. (2012). *Legal Aid in Illinois: Selected Social and Economic Benefits*. Chicago, Illinois: Social IMPACT Research Centre at Heartland Alliance.
- Lane, C. (1999). On camera proceedings: A critical evaluation of the inter-relationship between the principle of open justice and the television of court proceedings in Australia. *Monash University Law Review*, 54.
- LaTour, S. (1978). Determinants of participant and observer satisfaction with adversary and inquisitorial modes of adjudication. *Journal of Personality and Social Psychology*.
- Lawler, M., Giddings, J., & Robertson, M. (2009). Maybe a solicitor needs to know that sort of thing but I don't - user perspectives on the utility of legal self-help resources. In A. B., Pascoe Pleasence & Nigel Balmer (Ed.), *Reaching Further: Innovation, Access and Quality in Legal Services* (pp. 26-45). Norwich: The Stationery Office.
- Legal Aid BC (2020). *Everyday Legal Needs - 2020 Survey*. August 24, 2020.

- Legal Services Board. (2020). *Reshaping Legal Services to Meet People’s Needs: An Analysis of Legal Capability*. London: Legal Services Board.
- Legal Services Society. (2019). *MyLawBC Evaluation: Final Report*. Vancouver: Legal Services Society.
- Licoppe, C. & Dumoulin, L. (2010). The ‘curious case’ of an unspoken opening speech act: A video-ethnography of the use of video communication in courtroom activities. *Research on Language & Social Interaction*, 43(3), pp. 211–231.
- Macey J. R. (1994). Judicial preferences, public choice, and the rules of procedure. *Journal of Legal Studies*, 23, pp. 627-646.
- Macfarlane, J. (2013). *The National Self-Represented Litigant Project: Identifying and Meeting the Needs of Self-Represented Litigants – Final Report*. Available at: [https://www.lsuc.on.ca/uploadedFiles/For the Public/About the Law Society/Convocation Decisions/2014/Self-represented project.pdf](https://www.lsuc.on.ca/uploadedFiles/For%20the%20Public/About%20the%20Law%20Society/Convocation%20Decisions/2014/Self-represented%20project.pdf)
- Maclaren, J. (2019). *An External Review of Legal Aid Service Delivery in British Columbia*. Victoria: Attorney General of BC.
- McDonald, H. M., Forell, S., & Wei, Z. (2019). Uptake of legal self-help resources: What works, for whom and for what? *Justice Issues*, 30. Law and Justice Foundation of New South Wales.
- McDonald, H., M. & People, J. (2014). *Legal Capability and Inaction for Legal Problems: Knowledge, Stress and Cost*. Sydney: Law and Justice Foundation of New South Wales.
- Michie, S., van Stralen, M. & West, R. (2011). The behaviour change wheel: A new method for characterising and designing behaviour change interventions. *Implementation Science*, 6(42), pp. 1-11.
- Moore, L. (2020). *Measuring Impacts of Legal Services: A Literature Review on Research Design and Methodology*. Toronto: Canadian Forum on Civil Justice.
- Moore, L. & Farrow, T. C. W. (2019). *Investing in Justice: A Literature Review in Support of the Case for Improved Access*. Toronto: Canadian Forum on Civil Justice.
- Mulcahy, L. (2008). The unbearable lightness of being? Shifts towards the virtual trial. *Journal of Law and Society*, 35(4), pp. 464 - 489.
- OECD & Open Society Foundations (2019). *Legal Needs Surveys and Access to Justice*. Paris: OECD Publishing.
- OECD (2019). *Equal Access to Justice for Inclusive Growth: Putting People at the Centre*. Paris: OECD Publishing.

- Paetsch, J. J., Bertrand, L. D., & Boyd, J. D. (2017). *An Evaluation of the Cost of Family Disputes: Measuring the Cost Implications of Various Dispute Resolution Methods*. Calgary: Canadian Research Institute for Law and the Family.
- Peirce, R. S., Pruitt, D. G., & Czaja, S. J. (1993). Complainant-responded differences in procedural choice. *International Journal of Conflict Management*, 4, pp. 195–292.
- Pereira, I., Harvey, P., Dawes, W. & Greevy, H. (2014). *The Role of Court Fees in Affecting Users' Decisions to Bring Cases to the Civil and Family Courts: A Qualitative Study of Claimants and Applicants*. London: MoJ.
- Pereira, I., Perry, C., Greevy, H., & Shrimpton, H. (2015). *The Varying Paths to Justice: Mapping Problem Resolution Routes for Users and Non-Users of the Civil, Administrative and Family Justice Systems*. London: Ipsos Mori Social Research Institute.
- Pleasence, P. & Balmer, N. (2019). Development of a general legal confidence scale: A first implementation of the Rasch Measurement Model in empirical legal studies. *Journal of Empirical Legal Studies*, 16(1), pp. 143-174.
- Pleasence, P. & Balmer, N. (2014). *How People Resolve 'Legal' Problems*. London: Legal Services Board.
- Pleasence, P., Balmer, N. J., Buck, A., O'Grady, A. & Genn, H. (2004). Multiple justiciable problems: Common clusters, problem order and social and demographic indicators. *Journal of Empirical Legal Studies*, 1(2), pp. 301–29.
- Pleasence, P. T., Balmer, N. J., & Reimers, S. (2011). What really drives advice seeking behaviour? Looking beyond the subject of legal disputes. *Oñati Socio-Legal Series*, 1(6), pp. 1-18.
- Pleasence, P., Balmer, N. J., & Sandefur, R. L. (2013). *Paths to justice: A past, present and future roadmap*. London: UCL Centre for Empirical Legal Studies.
- Pleasence, P., Balmer, N. J., Denvir, C. (2015). *How people understand and interact with the law*. The Legal Education Foundation. Retrieved from: https://www.thelegaleducationfoundation.org/wp-content/uploads/2015/12/HPUIL_report.pdf
- Prairie Research Associates. (2017). *Evaluation of the Parents Legal Centre: Final Report*. Vancouver: Legal Aid BC.
- Puddister, K. & Small, A., T. (2020). Trial by Zoom? The response to COVID-19 by Canada's courts. *Canadian Journal of Political Science*, 53(2), pp. 373-377.
- Reid, G., Senniwi, D., & Malcolmson, J. (2004). *Developing models for coordinated services for self-representing litigants: Mapping services, gaps, issues and needs*. B.C. Supreme Court Self-help Information Centre.

- Resnik, J., Lind, A., MacCoun, R. J., Ebener, P., Felstiner, W., Hensler, D., & Tyler, T. (1990). In the eye of the beholder: Tort litigants' evaluations of their experiences in the civil justice system. *Law and Society Review*, 24(4), pp. 953-996.
- Robins, J. & Newman, D. (2021). *Justice in a time of austerity: Stories from a system in crisis*. Bristol: Bristol University Press.
- Rosenberg, J. S. & Grab, D. A. (2015). *Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence*. New York: Institute for Policy Integrity.
- Rossner, M. & McCurdy, M. (2020). *Video Hearing Process Evaluation (Phase 2)*. London: HM Courts & Tribunals Service. Retrieved from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/905603/HMCTS391_Video_hearings_process_evaluation_phase_2_v2.pdf
- Rowden, E. (2018). Distributed courts and legitimacy: What do we lose when we lose the courthouse? *Law, Culture and the Humanities*, 14(2), pp. 263–281.
- Rowden, E. & Wallace, A. (2018). Remote judging: The impact of video links on the image and role of the judge. *International Journal of Law in Context*, 14, pp. 504-524.
- Saini, M., Birnbaum, R., Bala, N., & McLarty, B. (2016). Understanding pathways to family dispute resolution and justice reforms: Ontario court file analysis and survey of professionals, *Family Court Review*, 54(3), pp. 382-397.
- Sandefur, R. (2014). *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study*. American Bar Association.
- Sandefur, R. (2019). Legal Tech for Non-Lawyers: Report of the Survey of US Legal Technologies. Retrieved from http://www.americanbarfoundation.org/uploads/cms/documents/report_us_digital_legal_tech_for_nonlawyers.pdf
- Sandefur, R. L. (2019a). Access to What? *Dædalus, the Journal of the American Academy of Arts & Sciences*, 148(1), pp. 49-55.
- Savage, L. & McDonald, S. (2022) , Experiences of serious problems or disputes in the Canadian provinces, 2021. *Juristat*, Statistics Canada. <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2022001/article/00001-eng.pdf?st=93lAg3mu>
- Schuller, R., A. & Hastings, P. (1996). What do disputants want? Determinants of procedural preference. *Canadian Journal of Behavioural Science*, 130.

- Shapiro, D. L. & Brett, J., M. (1993). Comparing three processes underlying judgements of procedural justice: A field study of mediation and arbitration. *Journal of Personality and Social Psychology*, 65(6), 1167-1177.
- Sela, A. (2018). Can computers be fair? How automated and human-powered online dispute resolution affect procedural justice in mediation and arbitration. *Ohio State Journal on Dispute Resolution*, 33(1), pp. 91-148.
- Sentis. (2018a). *Everyday Legal Problems*. Vancouver: Legal Aid BC.
- Sentis. (2018b). *2018 Client Satisfaction Survey*. Vancouver: Legal Aid BC.
- Shetowsky, D. (2014). The psychology of procedural preference: How litigants evaluate their procedures ex ante. *Iowa Law Review*, 637.
- Shetowsky, D. (2018). Inside the mind of the client: An analysis of litigants' decision criteria for choosing procedures. *Conflict Resolution Quarterly*, pp. 1-19.
- Shetowsky, D. & Brett, J. (2008). Disputants' perceptions of dispute resolution procedures: A longitudinal empirical study. *UC David Legal Studies Research Paper*, 130.
- Shetowsky, D. (2008). Disputants' preferences for court-connected dispute resolution procedures: Why we should care and why we know so little. *Ohio State Journal on Dispute Resolution*, 23(3), pp. 549-626.
- Sixta, M. (2020, April 15). How COVID-19 could force changes to family courts, modernize access to the justice system. *CBC News*.
- Smith, K. A. & Thayer, K. (2014). *An Assessment of the Economic and Societal Impacts of Civil Legal Services Programs Funded by the York County Bar Foundation*. York, Pennsylvania: York County Bar Foundation.
- Smith, K., Brewer, A. J., & Garwold, K. (2013). *Economic Impacts of Civil Legal Aid Organizations in Georgia: Civil Justice for Low-Income People Produces Ripple Effects that Benefit Every Segment of the Community*. Atlanta, Georgia: The Civil Legal Assistance Providers of Georgia.
- Smith, R. (2016). *Digital Delivery of Legal Services to People on Low Incomes*. The Legal Education Foundation.
- Stallworth, L. E. & Stroh, L. K. (1996). Who is seeking to use ADR? Why do they choose to do so? *Dispute Resolution Journal*, 51(1), pp. 30-38.
- Susskind, R. (2019). *Online Courts and the Future of Justice*. Oxford: Oxford University Press.
- Szczepanska, J. & Blomkamp, E. (2020). *Seeking legal help online: Understanding the 'missing majority'*. Melbourne: Justice Connect. Retrieved from

<https://justiceconnect.org.au/wp-content/uploads/2020/11/Justice-Connect-Seeking-Legal-Help-Online-Missing-Majority-Report-FINAL.pdf>

- Terry, M., Johnson, S., & Thompson, P. (2010). *Virtual Court Pilot Outcome Evaluation*. London: Ministry of Justice Research Series. Retrieved from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/193633/virtual-courts-pilot-outcome-evaluation.pdf
- Thibaut, J. W., & Walker, L. (1975). *Procedural justice: A psychological analysis*. Mahwah, NJ: Erlbaum.
- Thompson, D. (2015). Creating new pathways to justice using simple artificial intelligence and online dispute resolution. *International Journal of Online Dispute Resolution*, 1 (2), pp. 1-43.
- Tomlinson, J., Hynes, J., Marshall, E., & Maxwell, J. (2020). *Judicial Review in the Administrative Court During the COVID-19 Pandemic*. York: University of York.
- Transform Justice, National Appropriate Adult Network, and Fair Trials. (2021). *Not Remotely Fair? Access to a Lawyer in the Police Station During the COVID-19 Pandemic*. London. Retrieved from: <https://www.transformjustice.org.uk/wp-content/uploads/2021/02/Not-Remotely-Fair-Report-Feb2021.pdf>
- Walker, L., LaTour, S., & Thubaut, J. (1974). Reactions of participant and observers to modes of adjudication. *Journal of Applied Social Psychology*, 4(4), pp. 295-310.
- Wallace, A., Anleu, S. R., & Mack, K. (2018). Judicial engagement and AV links: Judicial perceptions from Australian courts. *International Journal of the Legal Profession*, 26(1), pp. 51-67.
- Welsh, N. (2004). Stepping back through the looking glass: Real conversations with real disputants about institutionalized mediation and its value. *Ohio Journal of Dispute Resolution*, 573.
- Western News. (2021, January 19). *Law Project Examines Pandemic's Impact on Family Justice*. Retrieved from: <https://news.westernu.ca/2021/01/law-project-examines-pandemics-impact-on-family-justice/>
- Wintersteiger, L. (2015). *Legal Needs, Legal Capability and the Role of Public Education*. Law for Life: The Legal Education Foundation.
- Wissler, R. L. (2002). Barriers to attorneys' discussions and use of ADR. *Ohio State Journal on Dispute Resolution*, 19(2), pp. 459-508.
- Wissler, R. R. (2002). When does familiarity breed content? A study of the role of different forms of ADR education and experience in attorneys' ADR recommendations. *Pepperdine Dispute Resolution Law Journal*, 2(2), pp. 199-240.

.....